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U.S. DEPARTMENT OF EDUCATION

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**Green Purchasing Plan**

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Supersedes OCFO:2-109 “Green Purchasing Plan” dated 02/26/2008.

For technical questions concerning information found in this ACS document, please contact CAM on (202) 245-6204 or [via e-mail](#).

## I. Purpose

The purpose of this document is to formally establish the United States Department of Education's (ED) Green Purchasing Plan, hereinafter referred to as the "Plan," which establishes ED's requirements for green-purchasing management and provides agency-wide guidance for implementing an effective green purchasing program. Green purchasing requires the use of sustainable environmental practices to acquire goods and services, including the acquisition of biobased, environmentally preferable, energy-efficient, water-efficient, and recycled-content products.

## II. Policy

Through this document, ED's objective is to fulfill its mission and objectives in a manner that achieves compliance and reduces resource consumption by increasing ED's purchases of green products and services to the maximum extent possible. ED is committed to operating in a manner that protects and restores the environment and promotes efficient use of natural resources, reduced waste generation at the source, procurement of environmentally preferable products, and the reuse and recycling of materials to the greatest extent practical. ED's requirements, procedures, and guidelines will help staff reduce or eliminate waste, reduce operating costs, and measure and report waste reduction and prevention. ED will work diligently to ensure that all procurements meet or exceed green purchasing requirements contained in the statutes, executive orders (E.O.), and other binding sources summarized below.

## III. Authorization

The requirement and authority for ED to implement the Plan stem from [E.O. 13423](#), "Strengthening Federal Environmental, Energy, and Transportation Management." The following additional documents establish the requirements for the Plan:

- a. [Instructions For Implementing Executive Order 13423](#), "Strengthening Federal Environmental, Energy, and Transportation Management," issued the Chairman of the Council on Environmental Quality (CEQ).
- b. Resource Conservation and Recovery Act (RCRA) [section 6002](#), which requires that the Environmental Protection Agency (EPA) provide [Comprehensive Procurement Guidelines](#) to designate products that are or can be made with recovered materials and to recommend practices for buying these products.
- c. [Federal Acquisition Regulation \(FAR\)](#); in particular, Acquisition Planning ([FAR Part 7](#)), Describing Agency Needs ([FAR Part 11](#)), Acquisition of Commercial Items ([FAR Part 12](#)), Simplified Acquisition Procedures ([FAR Part 13](#)), Environment and Energy Policy ([FAR Part 23](#)), Contract Administration and Audit Services ([FAR Part 42](#)), Quality Assurance ([FAR Part 46](#)) and Solicitation Provisions and Contract Clauses ([FAR Part 52](#)).

- d. [Energy Policy Act of 1992](#) (EPAct), P.L. 102-486, requires certain fleets to acquire alternative fuel vehicles, which are capable of operating on nonpetroleum fuels.
- e. [Energy Policy Act of 2005](#) (EPAct), P.L. 109-58, requires agencies to purchase products that are Energy Star-qualified or Federal Energy Management Program (FEMP)- designated.
- f. Energy Efficient Standby Power Devices ([E.O. 13221](#)) requires that Federal agencies purchase products with low standby power.
- g. Farm Security and Rural Investment Act of 2002 (FSRIA), P.L. 107-171 ([Title IX, Energy](#)). Section 9002 establishes a Federal biobased products-purchasing program similar to the buy-recycled program under RCRA.
- h. Procurement of Environmentally-Sound and Energy-Efficient Products and Services ([OMB Policy Letter 92-4](#))
- i. Federal Workforce Transportation ([E.O. 13150](#))
- j. Federal Real Property Asset Management ([E.O. 13327](#))
- k. Office of Federal Procurement Policy Act ([P.L. 93-400](#))

This Plan does not supersede any Federal green-purchasing requirements and does not negate any State or local requirement that may be more stringent than the requirements implemented by this Plan.

#### IV. Applicability

ED Principal Offices (POs) must take steps to carry out this Plan for acquisitions including services provided by vendors in which the supply or use of a product is required.

#### V. Definitions

A. **Acquisition (or Procurement)** – Acquiring by contract (includes contracts, simplified acquisitions, task or delivery orders, orders under other agency contracts, etc) and using appropriated funds, supplies, or services (including construction) by and for the use of the Federal Government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, or demonstrated and evaluated. Acquisition begins when ED's needs are established and ED identifies the requirements for satisfaction of ED's needs, solicitation, selection of sources, contract award and financing details, contract performance and administration, and those technical and management functions directly related to the process of fulfilling ED's needs by contract.

- B. **Acquisition Personnel** - Individuals at ED with procurement authority, including Contracting Officers and Purchase Cardholders.
- C. **Alternative fuel** - Defined by Section 301 of the Energy Policy Act of 1992, as modified from time to time by the Secretary of Energy by rule, i.e. non-petroleum based fuels. Refer to 10 CFR 490.2. An alternative fuel vehicle is a dedicated, flexible-fuel, bi-fuel, or dual-fuel vehicle powered by alternative fuel as defined in the same section.
- D. **Biobased Product** – A commercial or industrial product (other than food or feed) that utilizes biological products or renewable domestic agricultural (plant, animal, and marine) or forestry materials. [FSRIA [Title IX](#), Energy; Section 9001] See also USDA-designated item.
- E. **Certification** - Written documentation provided by offerors/bidders/vendors that certifies that the percentage of recovered materials contained in products or to be used in the performance of the contract is at least the amount required by applicable specifications or other contractual requirements. Certification of multi-component or multi-material products should verify the percentage of post-consumer waste and recycled material contained in the major constituents of the product.
- F. **Contracting Officer (CO)** - The person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings.
- G. **Contracting Officer's Representative (COR)** - Designated program official for technical monitoring of individually designated specific contracts; ensures compliance with the technical requirements of the contract or order.
- H. **Energy efficiency** - Measures, practices, or programs that reduce the energy used by specific devices and systems, typically without adversely affecting the services provided. Such savings are generally achieved by substituting technically more advanced equipment or by improving operating procedures (e.g., operations and maintenance procedures) to produce the same level of end-use services (e.g., lighting, heating, motor drive) with less energy input.
- I. **Environmentally preferable** - Products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw-materials acquisition, product, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service.
- J. **EPA-designated item** - An item designated by EPA in a [Comprehensive Procurement Guideline](#) and for which EPA-recommended procurement practices, including recovered-materials content levels, in a Recovered Materials Advisory Notice (RMAN). [FAR]

- K. **Estimation** - Quantitative determination made by vendors of the total percentage of recovered material contained in offered products. Estimations should be based on historical or actual percentages of recovered materials in products sold in substantial quantities to the general public or on another factual basis. EPA recommends that procuring agencies maintain records of these documents for 3 years by product type, quantity purchased, and price paid. [EPA Guidelines]
- L. **Life cycle cost** - The sum of the present values of capital costs, installation costs, operating costs, maintenance costs, and disposal costs over the lifetime of the project, product, or measure. A determination of life-cycle cost-effectiveness is made if the life-cycle costs of a product, project, or measure are estimated to be equal to or less than the base case (i.e., current or standard practice or product).
- M. **Federal Environmental Executive (FEE)** - The Federal Environmental Executive is designated by the President and heads the Office of the Federal Environmental Executive (OFEE). OFEE is a White House-based office responsible for implementing Administration policy on Federal environmental stewardship. The office is associated with the White House Council on Environmental Quality, which includes the President's senior environmental and natural resource advisors. The FEE takes all actions necessary to ensure agencies comply with the requirements of E.O. 13423 and prepares a biennial report to the President about these actions. [OFEE's website](#) is a useful resource for information on green purchasing.
- N. **Minimum Content Standard** - The minimum recovered material content specifications established to assure that the recovered material content required is the maximum available without jeopardizing the intended use of the item or violating the limitations of the minimum content standards set forth by EPA's guidelines.
- O. **Ozone-depleting substances** - Any substance designated as a Class I or Class II substance by the EPA.
- P. **Performance Specification** - A specification stating the desired product operation or function but not specifying its construction materials.
- Q. **Practicable** - Capable of performing in accordance with applicable specifications, available at a reasonable price and within a reasonable period of time, while maintaining a satisfactory level of competition with other products. [EPA Guidelines]
- R. **Preference** - When two products or services are equal in performance characteristics and price, the Government, in making purchasing decisions, will favor the more environmentally sound or energy-efficient product. [OFPP Policy Letter 92-4]
- S. **Preference Standard** - The highest practicable minimum content standard for products. When minimum content is impractical to calculate, preference is for the presence of a recovered material or an environmentally preferable trait (i.e., retread tires).

- T. **Principal Office (PO)** - An organization headed by an Assistant Secretary or the equivalent.
- U. **Principal Officer** - The Official in charge of an organization designated as a PO.
- V. **Recovered Material** - Waste materials and by-products recovered or diverted from solid waste, excluding those materials and by-products generated from, and commonly reused within, an original manufacturing process. Recovered Material Advisory Notices, or RMAN, are guidance issued by EPA recommending the range of recycled content that should be in products designated in the Comprehensive Procurement Guideline (CPG). RMAN also contain other EPA recommendations pertinent to purchasing recycled-content products, such as references to specifications established by government agencies, or standards-setting organizations [EPA Guidelines and OFPP Policy Letter 92-4]. A subset of recovered material, post-consumer refers to a material or finished product whose life as a consumer item has concluded, after it has served its intended use and has been discarded for disposal or recovery.
- W. **Recycling** - The series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of new products other than fuel for producing heat or power by combustion.
- X. **Renewable energy** - Energy produced by solar, wind, biomass, landfill gas, ocean (including tidal, wave, current, and thermal), hydrokinetic, geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project. "New renewable energy" means renewable sources placed in service after January 1, 1999.
- Y. **Simplified Acquisition Procedures** - The methods prescribed in the FAR for making purchases of supplies or services. A micro-purchase is an acquisition of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold. The thresholds for simplified acquisitions and micropurchases are defined in FAR Part 2, Definitions of Words and Terms.
- Z. **Specification** - A clear and accurate description of the technical requirements for materials, products, or services, including the minimum requirement for materials' quality and construction and any equipment necessary for an acceptable product. In general, specifications are in the form of written description, drawings, commercial designations, industry standards, and other descriptive references. [EPA Guidelines]
- AA. **Sustainable** – Of or pertaining to the creation and maintenance of conditions under which humans and nature can exist in productive harmony that fulfill the social, economic, and other requirements of present and future generations of Americans. "United States," when used in a geographical sense, means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S.

Virgin Islands, and the Northern Mariana Islands, and associated territorial waters and airspace.

**BB. Unreasonable Price** - When recycled-product cost is greater compared to virgin-material cost. (Unreasonable price is not a factor when minimum content standards are specified in the statement of work/procurement request because price estimates will only be obtained from vendors who can supply products meeting recovered material content requirements.) [EPA Guidance]

**CC. USDA-designated item** - A generic grouping of products that are or can be made with biobased materials that is listed by USDA in a procurement guideline (7 CFR part 2902, subpart B); and for which USDA has provided purchasing recommendations. [FAR]

**DD. Verification** - Procedures used by procuring agencies to confirm both vendor estimates and certifications of the percentages of recovered material contained in the products supplied to them or to be used in the performance of a contract.

## **VI. Responsibilities**

### **A. Assistant Secretary for Management, Office of Management (OM)**

The Assistant Secretary for Management has been designated by the Secretary, through delegation [EA/EM/327](#), the senior civilian officer responsible for the implementation of [E.O. 13423](#) and [Implementing Instructions](#) in ED. These responsibilities include:

1. Implementing within ED sustainable practices for (i) energy efficiency, greenhouse gas emissions avoidance or reduction, and petroleum-products use reduction, (ii) renewable energy, including bioenergy, (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. This includes establishing goals and preparing plans in accordance with E.O.13423 and the Implementing Instructions.
2. Establishing, developing and implementing, within ED green purchasing, programs for:
  - a. environmental management training to include an outreach/awareness program;
  - b. environmental compliance review and audit; and

- c. leadership awards to recognize outstanding or innovative environmental, energy, or transportation management performance.
3. Providing reports about ED's implementation of E.O. 13423 to the Chairman of the Council on such schedule and in such format as the Chairman of the Council may require.
4. Providing information and assistance to the Director OMB, the Chairman of the Council, and the FEE.
5. Reporting in accordance with Section IV of E.O. 13423 Implementing Instructions.
6. Issuing goals, policies, plans, guidance, and training for green purchasing and other environmental programs. These programs include solid-waste diversion goal, the toxics and hazardous chemicals and materials reduction plan, the sustainable design/high performance buildings implementation plan, and the Electronics Stewardship plan.
7. Participating in environmental workgroups identified in E.O. 13423 Implementing Instructions, as applicable.
8. Reviewing environmental memoranda of understanding for possible ED participation.
9. Submitting requests for agency waivers as applicable (i.e., waiver requests under Energy Policy Act of 2005 (P.L. 109-58), Section 701).
10. Reviewing justification documents, contractor estimates, and certifications and selecting random contracting records to review for compliance.
11. Monitoring usage of recycled-content and biobased products using the justifications for not buying EPA-Designated Recycled Content Products or U.S. Department of Agriculture (USDA)-designated biobased products and Federal Procurement Data System (FPDS) data to identify and propose actions to increase the procurement of EPA-Designated Recycled Content Products and other green purchasing where appropriate.
12. Performing Annual Review and Monitoring as stated in Section G below.

**B. Office of the Chief Financial Officer (OCFO)**

The OCFO is responsible for:

1. Issuing and maintaining the Plan.



2. Ensuring the training of acquisition personnel on green purchasing and tracking training completion.
3. Maintaining the Plan so that it meets the requirements of applicable laws and regulations and is appropriate for the nature of the organization's purchasing activities.
4. Strategizing improvement of green-purchasing performance.
5. Using FPDS to measure performance consistent with Federal metrics and reporting requirements. FPDS data will be used to track the purchase of EPA-Designated Recycled Content Products and other green environmentally-preferable products where appropriate or available.
6. Distributing green purchasing information through various means.
7. Supporting the Assistant Secretary for Management, OM in reporting to the OFPP and the FEE on ED's purchasing of EPA-designated recycled content guideline items and other green or environmentally preferable products when applicable.
8. Periodically reviewing acquisition personnel's justifications and other documentation to ensure compliance with this Plan's requirements.
9. Using [FedBizOpps](#) (FBO) announcements and ED's annual procurement forecasts to inform the contractor community that particular solicitations will require the supply or use of green products.

### **C. Acquisition Personnel**

Acquisition personnel are responsible for:

1. Reviewing all requirements/agency needs to ascertain and validate whether green products or services are involved in the procurement action.
2. Providing guidance to program managers and facilitating acquisition planning with respect to green products and services.
3. Incorporating appropriate green-purchasing requirements and FAR clauses into solicitations and contracts that are consistent with specifications provided by the customer and ensuring that requirements are incorporated into specifications and clauses for both new and existing contracts.
4. Purchasing recycled-content products at all dollar values; for purchases above the micropurchase threshold, justifying in writing to the file and to the Assistant Secretary for Management, OM, the rationale for not purchasing products with the amount of recycled content recommended by EPA's Comprehensive

Procurement Guidelines (CPG) as set out in the Office of Federal Procurement Policy Act and FAR 23.405.

5. Purchasing biobased, environmentally preferable, energy-efficient, water-efficient, and recycled-content products to the maximum extent practicable as required by E.O. 13423.
6. Ensuring compliance with Electronic Products Environmental Assessment Tool ([EPEAT](#)) when purchasing electronic products.
7. Using FPDS to track and report data concerning the purchasing of EPA-Designated Recycled Content Products and other green purchasing where appropriate or available. Responsible for correctly identifying such acquisitions for FPDS reporting purposes.
8. Complying with procedures for monitoring the effectiveness of green purchasing and assisting in data gathering for reporting.
9. Referring to materials, such as the OCFO intranet website, for additional information on purchasing environmental products and awarding environmental contracts.
10. Referring to [EPA's Environmentally Preferable Purchasing \(EPP\) Guides](#); i.e., "Greening Your Meetings and Conferences: A Guide For Federal Purchasers".
11. Providing oversight of contract execution to ensure green-purchasing requirements are addressed in accordance with the terms of the contract, including when applicable:
  - a. Requiring that vendors certify that the percentage of recovered materials to be used in the performance of the contract will be at least the amount required by applicable specifications or other contractual requirements as delineated in section 6002 of RCRA.
  - b. Requiring that vendors estimate the percentage of the total material utilized for the performance of the contract that is recovered material if the contract is for an amount greater than \$100,000 as delineated in section 6002 of RCRA.
  - c. Requiring that, with respect to biobased products, vendors certify that the biobased products to be used in the performance of the contract will comply with the applicable specifications or other contractual requirements as delineated in section 9002 of FSIRA.
12. Reviewing with appropriate vendors their role in the procurement of green products and services during the initial contract kickoff, and reinforcing these requirements with the contractor when appropriate during contract performance.

13. Maintaining required documentation in the purchase card file or contract file, including estimates, certifications, and written justifications for exceptions.
14. Completing any required green-purchasing training.

#### **D. Office of the Chief Information Officer (OCIO)**

OCIO is responsible for:

1. Ensuring that procurements made of Information Technology (IT) Hardware and Telecommunications products meet all green-purchasing requirements including [EPAAct 2005](#) and Energy Efficient Standby Power Devices ([E.O. 13221](#)).
2. Ensuring that all items identified for procurement are in compliance with green-purchasing requirements and [EPEAT](#). This includes products that result from contractor-provided services.
3. Developing and submitting a plan to implement electronics-stewardship practices for all eligible owned or leased electronic equipment in support of the goals in section 2(h) of E.O. 13423.
4. Conducting Life Cycle Cost Analysis in accordance with OMB's Policy Letter 92-4, titled "Procurement of Environmentally-Sound and Energy-Efficient Products and Services", whenever feasible and appropriate, to assist in selecting products and services.
5. Completing any required green-purchasing training.

#### **E. Office of Management (OM)**

OM is responsible for:

1. Issuing policies related to real property; reviewing design and recommending use of standards, such as Leadership in Energy and Environmental Design ([LEED](#)) Green Building Rating System.
2. Ensuring that acquisitions are made following all green-purchasing guidance and in accordance with Departmental Directives including [OPEPD:1-101](#) titled Interagency Agreements, the FAR, Federal Real Property Asset Management ([E.O. 13327](#)), EPAAct of 2005, EPA's WaterSense standards, and [RCRA](#) Section 6002.
3. Ensuring that vehicles leased from GSA follow [E.O. 13423](#) and the [Implementing Instructions](#) and use alternative-fuel vehicles and alternative fuels as required by EPAAct of 1992.

4. Maintaining vehicles at [commercial re-refined oil sources](#), using retread tires, and issuing policies and reports on ED's fleet.
5. Providing [mass transportation](#) and vanpool transportation fringe benefits in accordance with Federal Workforce Transportation ([E.O. 13150](#)).
6. Ensuring that printing and writing paper, including office papers such as copier paper, folders, envelopes, and writing tablets, meets 30% post-consumer fiber guidelines and issuing guidance for counterparts on paper standards. If paper or paper products containing 30 percent post-consumer fiber is not available, does not meet ED's performance needs, or is only available at an unreasonable price, then ED must purchase such products containing 20 percent post-consumer fiber.
7. Assigning recycling coordinators at appropriate facilities.
8. Working with GSA to ensure that custodial contracts for all ED buildings require [green cleaning products](#) and have recycling available.
9. Completing any required green-purchasing training.

#### **F. Principal Office (PO)**

All of the POs are responsible for:

1. Ensuring that acquisitions are made following all green-purchasing guidance and in accordance with Departmental Directives and the FAR
2. Supporting acquisition personnel with responsibilities listed in Section C above in accordance with [OCFO:2-107](#) titled Acquisition Planning and [OCFO:2-108](#) titled Contract Monitoring for Program Officials.
3. Completing any required green-purchasing training.

### **VII. Procedures and Requirements**

#### **A. Plan Components and Implementation**

##### **1. The Key Green-Purchasing Initiatives**

The key green-purchasing initiatives to be addressed are:

- a. Recycled-content products designated in EPA's Comprehensive Procurement Guidelines. (Section B)
- b. Biobased products designated by USDA in the BioPreferred program.; (Section C)

- c. Electronics Stewardship; (Section D) which includes
  - 1. EPEAT-registered electronic products;
  - 2. Energy Star products identified by the Department of Energy (DOE) and EPA; and
  - 3. FEMP-designated energy-efficient products.
- d. Environmentally Preferable Purchasing (EPP). (Section E)

Other Green-Purchasing Areas are addressed in Section F to include:

- a. Renewable Energy;
- b. Water-efficient products;
- c. Toxic and Hazardous Chemicals and Materials;
- d. Sustainable Design/Green Buildings; and
- e. Non-ozone depleting substances.

## **2. Acquisition Planning**

For all purchases, acquisition planning shall address environmental considerations. FAR Part 7 provides that, in developing plans, drawings, work statements, specifications, or other product descriptions, offices consider a broader range of factors including: elimination of virgin-material requirements; use of biobased products; use of recovered materials; reuse of product; life-cycle cost; recyclability; use of environmentally preferred products; waste prevention (including toxicity reduction or elimination), and ultimate disposal as appropriate. FAR Part 23 should also be consulted for additional environmental considerations. Procurement requirements in FAR Subparts 23.2, 23.4, and 23.7 apply to purchases at or below the micropurchase threshold. These factors should be considered in acquisition planning for all procurement and in the evaluation and award of contracts, as appropriate.

Acquisition personnel are responsible for ensuring that written acquisition plans discuss all applicable environmental and energy conservation objectives associated with the acquisition in accordance with FAR 7.105(b) (16).

Preference standards for green purchasing may be included in appropriate solicitation and contract language, specifications, drawings, plans, statements of

work, etc. or acquisition personnel may direct bidders and contractors to EPA, USDA, and/or DOE web sites.

Acquisition personnel will consider use of recovered materials, biobased materials, Environmentally Preferable Purchasing criteria developed by EPA, and environmental objectives when developing specifications and standards describing government requirements and developing source selection factors (i.e., reuse, recycling, waste reduction, and green purchasing). They will identify and document whether green products and services are available and can satisfy requirements for price, availability, and performance.

### **3. Specification Review/Revision**

Acquisition personnel are responsible for developing, reviewing, and revising specifications, product descriptions, and standards to enhance ED's domestic procurement of recycled-content, biobased, Energy Star, energy-efficient, EPEAT, and environmentally preferable products. Standards or specifications unrelated to performance or presenting barriers to procuring these products should be revised or eliminated when reviewing or drafting procurement specifications and scopes of work. When acquisition personnel are developing, reviewing or revising specifications or scopes of work, they will eliminate requirements for virgin materials or petrochemical materials; express preferences for recovered materials, biobased materials, and Energy Star, energy-efficient and EPEAT products to the maximum extent practicable; and allow for the purchase of these products.

In developing, reviewing, and revising specifications, product descriptions, and standards, acquisition personnel shall also consider, as appropriate, a broad range of factors including: use of biobased products; reuse of product; life cycle cost; recyclability; use of environmentally preferable products; waste prevention (including toxicity reduction or elimination); and ultimate disposal.

### **4. Contract Administration and Quality Assurance**

In accordance with FAR Subpart 42.302 (a)(68), Acquisition Personnel must:

Monitor the contractor's environmental practices for adverse impact on contract performance or contract cost, and for compliance with environmental requirements specified in the contract. [Administrative Contracting Officer] responsibilities include—

- (i) Requesting environmental technical assistance, if needed;
- (ii) Monitoring contractor compliance with specifications or other contractual requirements requiring the delivery or use of environmentally preferable products, energy-efficient products, products containing recovered materials, and biobased products. This must occur as part of the quality assurance procedures set forth in Part 46; and

(iii) As required in the contract, ensuring that the contractor complies with the reporting requirements relating to recovered material content utilized in contract performance (see Subpart 23.4).

## 5. Promotion Program for Green Purchasing

The Assistant Secretary for Management, OM is responsible for actively promoting ED's preference for green products. Promotion includes making product suppliers aware of ED's preference program, facilitating the education of program and acquisition personnel about requirements to procure green products, and providing employees and contractors with information about sources of green products.

ED will internally and externally promote its desire to buy green products by:

- a. Including preference standards for green purchasing in appropriate solicitation and contract language, specifications, drawings, plans, statements of work, etc. Alternatively, acquisition personnel may direct bidders and contractors to EPA, USDA, and/or DOE web sites.
- b. Providing informational materials, statements, and training to program and acquisition personnel, including Purchase Cardholders, regarding ED's green purchasing preference program;
- c. Providing to program and acquisition personnel relevant vendor and product information from established Federal supply sources and outside vendors; and
- d. Using [FBO](#) and ED's procurement forecasts.

## B. Recycled Content Products

EPA designates items for Federal agencies to purchase, which are known as EPA-designated items, recycled-content products, or products containing recovered materials. These terms all refer to items designated by EPA in the Comprehensive Procurement Guideline (CPG). The list of designated items and related procurement recommendations, including recycled-content levels, can be found on [EPA's web site](#).

The requirement for products containing recovered materials applies: (a) when ED requires the delivery or specifies the use of EPA-designated items; and (b) when ED awards contracts for services or construction unless the contract will not involve the use of such items.

It is ED's policy to purchase EPA-designated items to the maximum extent practicable unless written justification is provided for not doing so. ED's goal is that 100% of EPA-designated products that are acquired domestically contain recovered materials, unless product performance, price, and/or availability prevent doing so.

These requirements apply to all domestic purchases that require EPA designated items, including those supplies that are purchased in support of services provided by vendors.

## **1. Preference Program for Recycled Content Products**

100% of ED's purchases of EPA-designated recycled-content products that are acquired domestically will meet or exceed EPA standards unless there is a price, performance, or availability justification for not doing so.

ED's preference program is based on EPA's CPG designations of recycled-content products. Acquisition personnel will give preference to procuring and using such products containing recovered materials versus products made with virgin materials when:

- a. such products are available competitively within a reasonable time frame;
- b. meet reasonable performance standards; and
- c. are available at a reasonable price.

When establishing requirements, acquisition personnel will review the EPA's recommended recovered-materials minimum-content ranges, product specifications and other product information at the [EPA CPG website](#) for the following products.

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

This review will ensure that preference is given to recycled-content products when these products will be purchased domestically.

Acquisition personnel are encouraged to request, procure, and use other products containing recovered materials in addition to those items specified in EPA's Comprehensive Procurement Guidelines. Additional recycled-content products are available through Federal supply sources and outside vendors.

## **2. Special Requirements**

The following special requirements apply:



- a. **Paper Products-** ED will purchase printing and writing paper, including office paper such as copier paper, folders, envelopes, and writing tablets, containing 30 percent post-consumer fiber. If paper or paper products containing 30 percent post-consumer fiber is not available, does not meet ED's performance needs, or is only available at an unreasonable price, then ED must purchase such products containing 20 percent post-consumer fiber. ED will encourage the use of double-sided copying and printing.
- b. **Oil** – ED's fleet must use re-refined oil unless it is not available or does not meet performance needs. In addition, ED personnel must specify the requirement for using re-refined oil when obtaining routine maintenance.

### **3. Future EPA-Designated Items**

RCRA directs the EPA to continue to designate items made from recovered materials to further increase markets for recovered materials. As required by RCRA Section 6002, ED will incorporate additional items into its new procurements and existing contracts to the maximum extent practicable.

### **4. Justification for Not Buying EPA-Designated Recycled Content Products**

The requirement to purchase recycled-content EPA items applies to all domestic purchases, including those at or below the micro-purchase threshold. Under RCRA Section 6002(c), decisions not to buy recycled-content products must be justified in writing for all acquisitions above the micro-purchase threshold. RCRA provides four justifications: if it is determined that the items:

- a. are not available competitively;
- b. are not available within a reasonable time frame;
- c. do not meet reasonable performance standards; or
- d. are only available at an unreasonable price.

Acquisition personnel may only purchase EPA-designated items containing other than recovered materials if one of the exemptions listed above applies [refer to FAR 23.405(c)]. If an exemption applies, a written justification must be prepared. Acquisition personnel should refer to Appendix A for the appropriate format. A copy of the written justification is enclosed in the contract file, and a copy is forwarded to the Assistant Secretary for Management, OM.

### **5. Solicitation and Contract Provisions**

The recycled-content product requirements apply to contractors when they are purchasing or supplying EPA-designated products that will be used in certain

service contracts. COs will ensure that the following FAR clauses are inserted into contracts as necessary, and will highlight green-purchasing requirements and procurement of recycled-content products at post-award conference(s) when these clauses are included in contracts.

- (1) FAR 11.304 requires COs to insert the clause at 52.211-5, Material Requirements, in all solicitations and contracts for supplies that are not commercial items.
- (2) FAR 4.303 requires COs to insert the clause at 52.204-4, Printed or copied Double-sided on Recycled Paper, in all solicitations and contracts that exceed the simplified acquisition threshold.
- (3) FAR 23.705 requires COs to insert the clause at 52.223-10, Waste Reduction Program, in all solicitations and contracts for contractor operation of Government-owned or leased facilities and in all solicitations and contracts for support services at Government-owned or operated facilities.
- (4) FAR 12.301, Solicitation provisions and contract clauses for the acquisition of commercial items, requires COs to use the provisions and clauses contained in Part 23 regarding the use of recovered material and biobased products when appropriate for the item being acquired.
- (5) FAR 23.406(e) requires COs to insert 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.

### **5.1 Clause Insertion for Estimation**

COs shall insert the necessary provisions and clauses to ensure that contractors are aware of and are providing the estimates required by FAR Part 23. Copies of such estimates will be maintained in the contract file and sent to the COR as they are received.

COs shall include in all solicitations and contracts in excess of \$100,000 that include FAR provision 52.223-4, Recovered Material Certification, the following estimate clause:

- (1) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products

In accordance with FAR 23.406(b), the CO shall insert the clause at 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products, in solicitations and contracts exceeding \$100,000 that include the provision at 52.223-4, Recovered Material Certification. The CO shall

complete the “fill-in” part of the clause to instruct the contractor to submit the required estimate to the CO upon completion of the contract.

## 5.2 Clause Insertion for Certification

COs shall insert the necessary provisions and clauses to ensure that contractors are aware of and are providing certifications required by FAR Part 23. Copies of such certifications will be maintained in the contract file and sent to the COR as they are received.

COs shall ensure that the following certifications are addressed:

### (1) 52.223-4, Recovered Material Certification

In accordance with FAR 23.406(a), the CO shall insert the provision at 52.223-4, Recovered Material Certification, into solicitations that are for, or specify the use of, EPA-designated products containing recovered material; or include the clause at 52.223-17, Affirmative Procurement of EPA-designated Items in Service and Construction Contracts. (By signing the offer, contractor certifies that the percentage of recovered materials to be used in the performance of the contract will be at least the amount required by the applicable contract specifications.)

### (2) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (Alternate I)

In accordance with FAR 23.406(b), *if the technical personnel advise that estimates can be verified*, the CO shall complete the “fill-in” part of FAR 52.223-9 “, Estimate of Percentage of Recovered Material Content for EPA-Designated Products,” instructing the contractor to submit the required estimate to the Contracting Officer *and to use the Alternate I variation of the clause, which provides for the contractor’s certification that the percentage of recovered material content for EPA-designated products met the applicable contract specifications*. The CO shall complete the “fill-in” part of the clause to instruct the contractor to submit the required estimate in FAR 52.223-9 to the CO.

## C. Biobased Products

The FSRIA of 2002 included provisions that helped launch the [Federal Biobased Products Preferred Procurement Program](#), known as BioPreferred. One provision directed federal agencies to increase their purchase and use of “preferred” products. As defined by FSRIA, “biobased products” are products determined by USDA to be commercial or industrial goods (other than food or feed) composed in whole or in significant part of biological products, forestry materials, or renewable domestic agricultural materials, including plant, animal, or marine materials. Made from

renewable plant and animal sources, biobased products are generally safer for the environment than their petroleum-based counterparts. They are usually biodegradable or recyclable. FSRIA requires Federal agencies to purchase biobased products rather than their petroleum-based counterparts, as long as the biobased materials are reasonably available, reasonably priced, and comparable in performance.

### **1. Preference Program for Biobased Content Products**

ED is required to establish a procurement preference program for BioPreferred USDA-designated items. ED's preference program will include any current and future USDA Designated Biobased Products. The list of biobased products is available on [USDA's website](#). Acquisition personnel will give preference to procuring and using products containing biobased materials versus products made with other materials.

When establishing requirements, acquisition personnel will review the USDA's designated product information to ensure consideration is given to procuring these products.

Acquisition personnel are encouraged to request, procure, and use other products in addition to those items specified by USDA. Procurement tools and contract templates are available on [USDA's website](#).

### **2. Justification for Not Buying Biobased Content Products**

Acquisition Personnel may decide not to procure designated biobased products only if the items:

- a. are not reasonably available;
- b. fail to meet necessary performance standards; or
- c. are not available at a reasonable price.

If it is determined that an available biobased product cannot be used to meet a requirement, acquisition personnel should refer to Appendix A for the appropriate format for a written justification. A copy of the written justification is enclosed in the contract file, and a copy is forwarded to the Assistant Secretary for Management, OM.

### **3. Future USDA-Designated Items**

FSRIA of 2002 included two provisions that require USDA to develop and implement a comprehensive program for designating biobased products. ED will incorporate additional biobased items into its new procurements and existing contracts to the maximum extent practicable.

#### 4. Solicitation and Contract Provisions

Acquisition personnel must refer to [FAR 23.4](#) for guidance, and insert the following clauses as applicable:

(1) 52.223–1 Biobased Product Certification.

As prescribed in 23.406(a), insert the following provision:

**Biobased Product Certification**

As required by the Farm Security and Rural Investment Act of 2002 and the Energy Policy Act of 2005 (7 U.S.C. 8102(c)(3)), the offeror certifies, by signing this offer, that biobased products (within categories of products listed by the United States Department of Agriculture in 7 CFR part 2902, subpart B) to be used or delivered in the performance of the contract, other than biobased products that are not purchased by the offeror as a direct result of this contract, will comply with the applicable specifications or other contractual requirements.

(2) 52.223–2 Affirmative Procurement of Biobased Products Under Service and Construction Contracts.

As prescribed in 23.406(b), insert the following clause:

**Affirmative Procurement Of Biobased Products Under Service And Construction Contracts**

(a) In the performance of this contract, the contractor shall make maximum use of biobased products that are United States Department of Agriculture (USDA)-designated items unless—

(1) The product cannot be acquired—

- (i) Competitively within a time frame providing for compliance with the contract performance schedule;
- (ii) Meeting contract performance requirements; or
- (iii) At a reasonable price.

(2) The product is to be used in an application covered by a USDA categorical exemption (see 7 CFR 2902.10 et seq.). For example, some USDA-designated items such as mobile equipment hydraulic fluids, diesel fuel additives, and penetrating lubricants are excluded from the preferred procurement requirement for the application of the USDA-designated item to one or both of the following:

- (i) Spacecraft system and launch support equipment.
- (ii) Military equipment, i.e., a product or system designed or procured for combat or combat-related missions.

(b) Information about this requirement and these products is available at <http://www.usda.gov/biopreferred>

#### **D. Electronics Stewardship**

Electronics Stewardship involves the management of electronics in an environmentally responsible manner. ED is required by EPLA 2005 (P.L. 109-58) and FAR Section [23.203](#) to incorporate the performance criteria used for [Energy Star](#) qualified and FEMP-designated products into procurement contracts for energy-consuming products and systems. These include guide and project specifications; construction, renovation and service contracts; and the evaluations of offers. FEMP's website provides [model language](#), as does [EPEAT's website](#), that can be inserted and customized as necessary into contracts that involve energy-consuming products and systems.

In addition, ED will assess its participation in the Federal Electronics Challenge (FEC). The FEC, sponsored by OFEE and EPA, is a voluntary education and recognition partnership program that assists Federal agencies and facilities in purchasing environmentally-sound electronic products, reduces the negative environmental impact of electronic products during use, and manages obsolete electronics in an environmentally safe manner. Those participating in the FEC will attempt to follow stricter environmental standards for computer purchases and to promote sustainable environmental stewardship of Federal electronics assets.

E.O. 13423 requires assurance that "when acquiring an electronic product to meet its requirements, it meets at least 95 percent of those requirements with an EPEAT-registered product, unless there is no EPEAT standard for such product." EPEAT provides standards for electronic products including computers, monitors, and laptops and is available online at <http://www.epeat.net>. All electronic products listed in the EPEAT Registry are Energy Star 4.0 qualified.

##### **1. Preference Program for Energy Star/Energy Efficient/FEMP/EPEAT Products**

Acquisition personnel will give preference to procuring and using Energy Star/Energy Efficient/FEMP products, versus products that are not. EPEAT-registered products will be given preference when purchasing in all relevant electronic product categories. When establishing requirements, acquisition personnel should review any EPA and DOE product information to ensure consideration is given to procuring these products.

Acquisition personnel are encouraged to request, procure, and use other Energy Efficient products in addition to those items specified by EPA or DOE.

Acquisition personnel will ensure that purchases are made in accordance with [FAR 23.203](#), Energy-efficient products, and insert FAR clause 52.223-15, Energy

Efficiency in Energy-Consuming Products 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.

Acquisition personnel will ensure that purchases are made in accordance with [FAR 23.705, Electronic products environmental assessment tool](#) and insert FAR clause [52.223-16](#), IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products, or Alternate I of the clause, as appropriate.

## **2. Future Energy Star/Energy Efficient/EPEAT Products**

ED will incorporate additional Energy Star/Energy Efficient/FEMP products and requirements into its new procurements and existing contracts to the maximum extent practicable. ED will follow the EPEAT standard for other types of electronic products if they are added to the tool in the future.

## **3. Justification for Not Buying Energy Star/ Energy Efficient/FEMP/ EPEAT Products**

If it is determined that an available Energy Star/Energy Efficient/FEMP/EPEAT Product cannot be used to meet a requirement, acquisition personnel should refer to Appendix A for the appropriate format for a written justification. A copy of the written justification is enclosed in the contract file, and a copy is forwarded to the Assistant Secretary for Management, OM.

FAR 23.204 states that an agency is not required to procure an Energy Star or FEMP-designated product if the head of the agency determines in writing that:

- a. No ENERGY STAR® or FEMP-designated product is reasonably available that meets the functional requirements of the agency; or
- b. No Energy Star or FEMP-designated product is cost effective over the life of the product taking energy cost savings into account.

## **E. Environmentally Preferable Purchasing (EPP)**

“Environmentally preferable” refers to products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw-materials acquisition, production, manufacturing, packaging, distribution, reuse,

operation, maintenance, or disposal of the product or service. Environmentally preferable purchasing also requires that options such as reduced or environmentally-friendly packaging be considered as part of acquisition planning.

EPA's EPP Guide titled "[Greening Your Meetings and Conferences: A Guide For Federal Purchasers](#)" is relevant to all ED POs.

### **1. Preference Program for EPP**

Acquisition personnel are encouraged to request, procure, and use other Environmentally Preferable products or services. Acquisition personnel will give preference to procuring and using Environmentally Preferable products or services, versus products or services that are not Environmentally Preferable.

When establishing requirements, acquisition personnel will review [EPA's website](#) information to ensure consideration is given to procuring these products. This website provides guidance on EPP as well as product and service information, case studies, and other information of interest for environmental planning.

ED will incorporate additional EPP requirements into its new procurements and existing contracts to the maximum extent practicable.

### **F. Other Green Purchasing Requirements**

ED will ensure compliance in the following areas:

- 1. Renewable Energy** – ED will follow DOE guidance in order to comply with the Energy Policy Act of 2005 (P.L. 109-58), and E.O. 13423.
- 2. Water-Efficient Products** – ED will purchase [WaterSense](#)-labeled products and choose irrigation contractors who are certified through a WaterSense-labeled program.
- 3. Toxic and Hazardous Chemicals and Materials** – ED will "reduce the quantity of toxic and hazardous chemicals and materials, acquired, used, or disposed of" in compliance with E.O. 13423. Acquisition Personnel will be required to purchase materials in compliance with ED's toxics and hazardous chemicals and materials reduction plan.
- 4. Sustainable Design/Green Buildings** – ED will ensure that new construction and major renovation, as well as lease provisions, comply with the [Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings](#).
- 5. Non-ozone depleting substances** – ED will ensure that non-ozone depleting substances identified in [EPA's Significant New Alternatives Program](#) are given preference.



## **G. Annual Review and Monitoring**

The Assistant Secretary for Management, Office of Management (OM) will perform an annual review of available data on purchases of green products. Internal reviews and audits will be used to review and assess the progress that ED is making with respect to the Plan.

### **1. Process Overview**

- a. ED will retrieve FPDS data and identify contracts for which the contracting officials coded “A” in response to the question “will EPA-designated recycled content products be supplied or used in this contract.” Alternatively, ED will select contracts in a category which should be coded A but have been coded E.
- b. ED will select a representative sample of contracts. ED will review the title of the contracting action to identify contracts in which recycled content products were likely to be used. “Representative” means representative of the breadth of ED’s operations and types of contracts in which green products are likely to be supplied or used (e.g., construction, janitorial services, grounds maintenance, food services, office supplies, IT products or services, facility operation and maintenance, fleet vehicle maintenance).
- c. ED will request contract file data from the appropriate source. Review the contracts, and identify those properly coded and those improperly coded. For example, a contract for office electronic equipment should not be coded “A,” because there are no EPA-designated recycled content electronic products.
- d. ED will identify appropriate corrective action; for example, training about the green purchasing requirements and/or properly coding FPDS data; and will direct the appropriate office to take action.

### Appendix A - Justification Form

1. Principal Office \_\_\_\_\_ has a need for the following item or items (insert description of the item or items): \_\_\_\_\_

2. I have determined that ED cannot purchase the item pursuant to the guidelines for:

- Recovered material content (EPA)
- Biobased/BioPreferred content (USDA)
- Energy Star/ Energy Efficient/FEMP Product (EPA/DOE)
- EPEAT
- Other \_\_\_\_\_

Because (check appropriate block(s)):

- Product is only available at an unreasonable price.
- Product is not reasonably available within a reasonable period of time.
- Product fails to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards.
- Energy Star product or FEMP designated product is not cost-effective over the life of the product taking energy cost savings into account.
- No Energy Star product or FEMP designated product is reasonably available that meets the functional requirements of ED.
- Other \_\_\_\_\_

3. Provide information, documentation, etc. to substantiate the reason or reasons indicated above. Attach additional information, documentation, etc. as necessary.

\_\_\_\_\_  
\_\_\_\_\_

4. Identify what initiatives are being taken to ensure the use of these products in future requirements.

\_\_\_\_\_  
\_\_\_\_\_

**Approved By:**

Date: \_\_\_\_\_ Name: \_\_\_\_\_

\_\_\_\_\_  
**Signature of Contracting Officer (CO)**

(The CO shall maintain the original justification in the contract file and forward a copy to OM. Note: EnergyStar/FEMP exceptions require head of the agency finding in writing.)