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COMMERCE ACQUISITION MANUAL 1323.70

DEPARTMENT OF COMMERCE SUSTAINABLE PROCUREMENT PROGRAM



COMMERCE ACQUISITION MANUAL

1323.70

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SUSTAINABLE PROCUREMENT PROGRAM

SECTION 1 - OVERVIEW

1.1 Background

As a federal agency in the Executive Branch, the Department of Commerce (DOC, the Department) must comply with Federal laws and regulations to purchase sustainable products and services. This includes a requirement for an agency affirmative procurement program for recovered materials in accordance with 42 USC 6962 and biobased products in accordance with 7 USC 8102.

1.2 Purpose

The purpose of this policy is to describe the agency affirmative procurement programs in accordance with 42 USC 6962 and 7 USC 8102 for the Department of Commerce and the requirements for processing justifications that the procurement of sustainable products or services is not practicable.

1.3 Applicability

This policy applies to all Department of Commerce operating units, offices and applicable contractors and purchases. For the purposes of this policy, contract actions include task and delivery orders under existing contracts.

1.4 Policy

It is the policy of the Department to procure sustainable products and services to the maximum extent practicable, consistent with the requirements of the FAR and Federal statutory purchasing programs.

End of Section 1

SECTION 2 – Agency Affirmative Procurement Programs

2.1 Products Containing Recovered Materials

This Agency Affirmative Procurement Program covers products containing recovered materials in accordance with Federal Acquisition Regulation 23.107-1(d).

2.1.1 Recovered materials preference program

The Department of Commerce requires the purchase of products containing recovered materials in accordance with 42 USC 6962 to the maximum extent practicable.

2.1.2 Program to promote the recovered materials preference program

The preference for recovered materials shall be actively promoted within the Department. Promotion shall be conducted internally and externally and consist of training and outreach activities.

2.1.3 Reasonable estimates and certification

Contracting officers shall include FAR 52.223-4 and 52.223-9, where applicable, for EPA-designated items. Contracting Officers shall maintain copies of certification documents and produce copies of the written certification upon request.

2.1.4 Annual review and monitoring

Vendor certification documents shall be reviewed as part of the annual contract review and monitoring process to verify contractor compliance.

2.1.5 Guidance for purchases at or below the micro-purchase threshold

In accordance with 42 USC 6962(a) purchases at or below the micro-purchase threshold are not required to follow the requirements for products containing recovered materials.

2.2 Biobased Products

This Agency Affirmative Procurement Program covers biobased products in accordance with Federal Acquisition Regulation 23.107-2(d).

2.2.1 Biobased products preference program

The Department of Commerce requires the purchase of biobased products in accordance with 7 USC 8102 to the maximum extent practicable.

2.2.2 Program to promote the biobased products preference program

The preference for biobased products shall be actively promoted within the Department. Promotion shall be conducted internally and externally and consist of training and outreach activities.

2.2.3 Reasonable estimates and certification

Contracting officers shall include FAR 52.223-1 and 52.223-2, where applicable. Contracting Officers shall maintain copies of certification documents and produce copies of the written certification upon request.

2.2.4 Annual review and monitoring

Vendor reporting documents shall be reviewed as part of the annual contract review and monitoring process to verify contractor compliance.

END OF SECTION 2

SECTION 3 – Justifications that the Procurement of Sustainable Products or Services is Not Practicable

3.1 Written Justifications for Exception to Sustainable Product or Service Procurement

For acquisitions above the micro-purchase threshold, a decision not to specify and procure items using the statutory purchase programs described in FAR 23.107, when applicable, must be supported by a written justification addressing the reasons described in FAR 23.103(a)(1) and approved by the Head of Contracting Office. The Requesting Official is responsible for preparing and documenting the justification. The justification should be fact based and supported by market research and address what is being done to remove unnecessary barriers or restrictive specifications in future requirements. The justification shall be submitted to the Contracting Officer for review and submission to the Head of Contracting Office for approval.

The Contracting Officer shall place an approved justification in the contract file and provide a copy to the Requesting Official. Appendix A provides a sample format for a Request for Procurement Exception.

END OF SECTION 3

APPENDIX A - Request for Sustainable Product or Service Procurement Exception

MEMORANDUM FOR: [Head of Contracting Office] THROUGH: [Contracting Officer]
FROM: [Requesting Official]
SUBJECT: Exception to [Insert Statutory Program Requirement]

This is a request for Head of Contracting Office (HCO) approval in accordance with Commerce Acquisition Manual (CAM) 1323.70. Under [Procurement Request No. or Acquisition Title], the [insert requiring office name] has a requirement for one or more of the following designated items [insert description of the covered product or service], which it has determined cannot be purchased for the following reason(s):

1. ☐ EPA-Designated (Recovered Products) ☐ USDA-Designated (Biobased Products)
☐ ENERGY STAR ☐ FEMP-designated Products

The Item(s) cannot be acquired:

- ☐ Competitively within a reasonable performance schedule
- ☐ That meet reasonable performance requirements; or
- ☐ At a reasonable price.

Attach additional information, documentation, as appropriate, to substantiate the reason(s) indicated above. The Exception should be based on fact, supported by market research, and address what is being done to ensure there are no unnecessary barriers or restrictive specifications in future requirements.

Routing Process:

The Requesting Official shall prepare the Exception and submit it to his/her Contracting Officer who, upon review and acceptance, shall forward to the Head of Contracting Office (HCO) for approval. If the HCO approves the Exception; the Contracting Officer shall place the fully executed Exception in the contract file and send a copy to the Requesting Official.

Reminder: Sustainable Product or Service Procurement Exceptions are not required for acquisitions below the micro- purchase threshold .

APPROVED BY: [Head of Contracting Office]

Date: