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ACQUISITION,
TECHNOLOGY
AND LOGISTICS

DEC 11 2013

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(ACQUISITION AND PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DIRECTOR, DEFENSE COMMISSARY AGENCY
DIRECTOR, DEFENSE CONTRACT MANAGEMENT AGENCY
DIRECTOR, DEFENSE LOGISTICS AGENCY
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE
DIRECTOR, MISSILE DEFENSE AGENCY
DIRECTOR, NATIONAL GEOSPATIAL-INTELLIGENCE
AGENCY
DIRECTOR, NATIONAL SECURITY AGENCY
DIRECTOR, DEFENSE HEALTH AGENCY
DIRECTOR, WASHINGTON HEADQUARTERS SERVICES

SUBJECT: Compliance with the DoD Strategic Sustainability Performance Plan, Sub Goal 6.1 - 95% of Procurements Conducted Sustainably

This memorandum continues the requirement established in the Department of Defense (DoD) Strategic Sustainability Performance Plan (SSPP) to ensure compliance with Sub Goal 6.1 - 95% of Procurement Conducted Sustainably. The sub goal requires that 95% of contract actions for applicable products and services, meeting DoD performance requirements, must adhere to the principles of sustainability by containing energy-efficient (Energy Star or Federal Energy Management Program-designated), water-efficient, bio-based, environmentally preferable (excluding products registered by the Electronic Product Environmental Assessment Tool (EPEAT)), non-ozone depleting, recycled content, and/or are non-toxic or less-toxic alternatives. This requirement excludes the acquisition of weapon systems and their components and spare parts.

To demonstrate compliance with the DoD SSPP, Sub Goal 6.1, Defense Procurement and Acquisition Policy (DPAP) is continuing the data collection and review process established in the prior compliance reviews. The Departments and Agencies identified above shall review a sample of 100 applicable contract actions with a value greater than $3,000 from the third and fourth quarters of FY 2013 to determine if the contract actions include requirements for sustainable products and services. The pool of contracts selected shall include procurements in which green/sustainable products and services can be supplied or used. For each selected contract action, the reviewer shall identify which of the following designated categories apply:

- EPA-designated recycled content products (i.e., CPG items)

- IT related Energy Star Energy products
- FEMP-designated Energy Efficient Low Standby Power products
- USDA-designated Biobased/BioPreferred products
- Environmentally Preferred Products
- EPEAT-registered products
- Water efficient products (i.e., WaterSense)
- Non-Ozone Depleting Substances (i.e., SNAP)
- Non or Low Toxic or Hazardous Constituents (i.e., non-VOC paint)
- Other (if required)

Per OMB guidance at least 10% of the items should be IT related Energy Star products, FEMP-designated energy efficient low standby power products, and USDA Biobased / Bioprefered products.

Findings from the review shall be reported in the attached template format. Please plan to complete the review and submit your report by January 15, 2014. The attached "Best Practices/Questions and Answers" document is provided to assist in the review process. Additional information about Sustainable Acquisition can be found at the OMB website: http://www.whitehouse.gov/omb/procurement_index_green/ and in DoD's Green Procurement Program: http://www.acq.osd.mil/dpap/cpic/cp/specific_policy_areas.html#green_procurement, which provides a comprehensive strategy for implementing environmentally preferred practices while sustaining the overall mission.

My point of contact for this action is Mr. Larry McLaury, who may be reached at larry.j.mclaury2.civ@mail.mil or 703-697-6710.

Richard Ginman
Director, Defense Procurement
and Acquisition Policy

Attachments:
As stated

**Department or Agency Name**
**Reporting Template**
**Compliance with DoD Strategic Sustainability Performance Plan**
**Sub-Goal 6.1 "95% of Procurements Conducted Sustainably"**

| No. | Department or Agency | Division or Activity | Contract Number | Brief Description of Contract Action | EPA Recycled Content (CPG Items) | IT related Energy Star | FEMP Energy Efficient | Bio Preferred | Enviro Preferable | EPEAT | Water Sense | Ozone | Nontoxic | Other | Specific Example of Sustainable Procurement from Contract | Opportunities for Improvement | 3rd or 4th Qtr FY 13 | Compliant Y or N |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | DoD | Facilities | SP6852-10-C-0011 | Custodial Services Headquarters Complex | | x | | | | | | | | | Contract requires the contractor to "participate actively" in the energy conservation program and to get approval from the contracting officer prior to the use of any high energy consuming tools or equipment. | Environmentally preferred detergents and cleaners could be specified. Hand towels and other bathroom paper products containing recycled/recovered material could be specified | 3 | Y |
| 2 | DoD | Facilities | SP6852-09-D-0014 | Mechanical Services - Headquarters Complex | | | | | | | | | x | | Contract prohibits the use of materials containing Asbestos, PCB's or lead-based paint. | Contract requires the as necessary replacement of various plumbing fixtures including faucets, toilets, drinking fountains, etc. Contract requires that the replacement fixtures operate the same as the item replaced, however, a statement could be included to specify water efficient products. | 4 | Y |
| 3 | DoD | Facilities | SP6852-09-D-0008 | Interior/Exterior Building Maintenance Services | x | | | | | x | | | | | Contract requires the use of the BASF 6ix Again program for recycling carpet. Additionally, the contract directs the contractor to follow the procedures detailed in the DLA Affirmative Procurement Program and lists Guideline Products with Recycled Content. | Significant portion of contract requires window and skylight cleaning. Contract could specify the use of environmentally friendly class cleaning detergents. | 3 | Y |
| 4 | DoD | Facilities | SP6852-11-D-XXXX | Cubicle Wall Sound-Proof Barriers (Example) | x | | | | | | | | | | Contract specified products which include recycled, recovered content | | 4 | Y |
| 5 | DoD | Facilities | SP5684-11-D-XXXX | Plumbing Fixtures, Building | | | | | | | | | | | | Contract was for 3,000 each sink faucet fixtures. Standard fixtures were purchased where WaterSense or other water efficient fixtures with similar pricing and availability were available. | 3 | N |
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**Compliance with Green Products Requirements**
**Best Practices/Question and Answer for Reviewing Contract Actions**

This document provides best practices for meeting the Office of Management and Budget (OMB) scorecard action item to review applicable contract actions for compliance with the statutory and executive order green purchasing requirements. It was developed by OMB and the interagency Sustainable Acquisition and Materials Management Practices Workgroup (SAMM) to assist agencies with meeting the OMB scorecard action item. It consists of two parts: Part I identifies best practices and Part II are questions and answers pertaining to the contract actions reviews.

## Part I – Best Practices

How are Contract Actions Selected for Review?

- The scope of contract actions selected for review includes purchases of products and purchases of services under which green products could be supplied or used. The Q&A in Part II provides additional guidance on contract actions and the list of 10 types of services contracts that should be reviewed.
- Agencies may select specific types of contract actions on which to focus their reviews (e.g., construction contracts). However, per OMB guidance, a mix of contract actions is preferred.
- Note: Per OMB guidance, contracts solely for the purchase of EPEAT-registered products may be included in the pool of contract actions to be reviewed *if the contract is new*. Contract actions against an existing contract vehicle for purchase solely of EPEAT-registered products cannot be included in the pool of contract actions to be reviewed.
- In general, agencies download Federal Procurement Data System data on their contract actions for the quarter(s) to be reviewed. Contract data from internal contract information or management systems can also be used.
- Agencies may set a dollar threshold for contract actions to be reviewed.
- Agencies then scrub the list of contract actions to exclude specific types. Examples of the types of contact actions agencies excluded are as follows:
    - Medication and medical services
    - Space flight hardware
    - Academic services
    - Support of overseas operations
    - Computer programming services
    - R&D
    - Program assessments
    - Consulting services
    - Training
    - Leases
- Scrubbing can be done at the headquarters level, by operating organizations, or by regional offices.
- Some agencies also excluded contract actions in which the inclusion of green product requirements had been standardized, such as janitorial contracts.

- Agencies can develop lists of NAICS that will be excluded and limit future FPDS data runs by excluding those NAICS from the scope of the run.
- The type of contract actions to be reviewed varies with each agency. In general, agencies excluded purchase card purchases. Agencies can include contract modifications, task orders, and delivery orders, although at least one agency excluded them. If an agency chooses to exclude them, then it must review the base contract.

Who Reviews the Contract Actions?

- Contract actions can be reviewed either at the headquarters level, by operating entities, or by regional offices.
- The OMB scorecard reviews are conducted separately from other, more in-depth contract reviews that agencies conduct, such as quality assurance or program management reviews.

What is Reviewed?

- The contract action content that is reviewed varies by agency. Some agencies review the entire contract action, some review the clauses, and others ask their regional offices or operating entities to indicate whether green product requirements had been included in the contract action.
- It is generally agreed that review of the FAR clauses is not sufficient.
- Additional information about a contract action, such as the solicitation or contract language, can be found in FedBizOps.
- If a contract action should have required several types of green products, but only had a requirement for one type (e.g., Energy Star), agencies considered the contract action to be compliant. In the future, contract actions must require all applicable types of green products to be considered compliant.
- At this time most agencies do not verify, as part of their contract action reviews, that green products had been delivered.

Corrective Action

- At least one agency requested corrective action plans from its operating entities.
- If a contract action has no green product requirement but green products are delivered, the contract action counts toward the 5%. However, the agency must take corrective action to assure that the green product requirements are included in the future.
- One agency suggested that its regional offices modify existing contracts to add FAR clauses that should have been included but were not.
- When addressing corrective action, an agency may address its six month planned action(s) for categories of contract actions rather than corrective action for each individual non-compliant contract.

**Part II Questions & Answers**

1. What "types of contract actions" must be reviewed by the agencies to assess 95% GPP compliance from the list below?

    a. New contracts issued in the third and fourth quarters of FY 2013, including BPAs
    b. Solicitations for new contracts, even if the expected award will be in a subsequent quarter
    c. Modifications to existing contracts to add green product requirements
    d. Task orders under existing multi-year contracts
    e. Indefinite Delivery Indefinite Quantity (IDIQ)
    f. Multiple Award Contracts
    g. Multiple Award Schedules
    h. Any other categories?

    A: All of these contract actions could be reviewable contract actions, depending on whether the agencies use them. In addition, small agencies whose contract actions are primarily purchase card purchases can review those purchases. Large agencies should not review purchase card purchases.

2. Can contracts for the purchase only of EPEAT-registered products be included in the 5% to be reviewed?

    A: Yes, if an action is a new contract. No, if the contract action is an order against an existing contract vehicle (e.g., an IDIQ or a delivery order against a GSA schedule).

3. Can agencies categorically exclude certain types of contracts, such as purchases of medications?

    A: Yes.

4. Should contracts for consulting services, training, and R&D, where the only potential green product is the paper used to print and copy deliverables, be excluded?

    A: Each agency can determine whether to include or exclude these types of contracts.

5. May agencies include purchase card purchases?

    A: Each agency may determine whether to include purchase card transactions. As noted above, large agencies should focus on contracts and not on purchase card transactions. If purchase card transactions are reviewed, the total number of such transactions must be added to the denominator before the 5% of contract actions is calculated.

6. If agencies are not to include purchase cards, should they include in the reviews certain items that are commonly purchased with purchase cards and that should be green, such as office supplies?

   A: Each agency may determine whether to include or exclude them.

7. Should agencies select randomly from the list of contract actions listed in #1 above or should they select from each one of the categories for review?

   A: A mix of contract actions is better, but each agency may select one or two types of contract types on which to focus its review.

8. Should agencies set a dollar threshold for the contracts to be reviewed or a purchase card dollar threshold?

   A: Agencies may set a threshold but it should be noted that high thresholds could result in missing contract actions that have green product requirements included.

9. What is the definition of "applicable contract actions" to use? Is the list below complete enough satisfy the definition?

   a. Purchases of the products specified in E.O. 13514:

      i. EPA-designated recycled content products (CPG items)
      *ii.* EPEAT-registered products *(Note: Already reported under Electronics Stewardship)*
      *iii.* Energy Star or FEMP-designated energy efficient products and appliances *(Note: Some of these produtcs are reported un Electronics Stewardship)*
      iv. USDA-designated Biobased/BioPreferred products
      v. Environmentally preferable products
      vi. WaterSense or other water efficient products
      vii. Products containing non- or lower ozone depleting substances (SNAP)
      viii. Products containing no or low toxic or hazardous constituents (e.g., non- VOC paint)

   b. Services contracts under which green products will be supplied or used:

      i. Building construction, renovation, or repair
      ii. Building operations and maintenance
      iii. Landscaping services
      iv. Pest management
      v. Electronic equipment, including leasing
      vi. Fleet maintenance
      vii. Janitorial services

viii. Laundry services
ix. Cafeteria operations
x. Meetings and conference services
xi. Building interiors/furniture

A: These lists are adequate. Also consider including contracts for building interiors and furniture.

10. Should agencies select randomly from the list above or should they select from each one of the categories for review?

A: It is acceptable to either select some of the products and services from the lists in #9 or select from each type of green product and service.

11. Is the inclusion of FAR clauses or Scope of Work language sufficient to count a contract as compliant?

A: For this year it is acceptable for a contract action to contain either the applicable FAR clauses or green requirements in the scope of work or both. In future years, contract actions must contain both SOW requirements and applicable FAR clauses. Additionally, agencies must add monitoring for green requirements to their post award procedures. Where shortcomings are identified, agencies must also include corrective actions for this review period.

12. May agencies "cherry pick" compliant contracts to demonstrate that the 5% reviewed are compliant or always select randomly?

A: An agency may cherry pick categories or contracts in order to demonstrate that the 5% of contract actions reviewed are compliant.

13. Should the 5% of contract actions reviewed include only large contracts – representing a larger impact on the marketplace?

A: An agency may determine to review only large contracts as long as those contracts are "applicable" and contain green product requirements.

14. What are the requirements, if any, for services contracts under which designated products will not be supplied or used? We enter into many types of services contracts under which we are acquiring information (e.g., R&D, studies, training) or technical support (e.g., meeting planning services, doctor's services, assessments of various types). Are these "applicable" contracts? What do we do about deliverables, including invoices, financial reports, technical progress reports, and technical reports? Under the basic tenets of waste prevention, which go way back at least to the Clinton Administration, we should be minimizing paper use and requiring electronic submittals. If we do receive any type of paper deliverable, we should require the contractor to print or copy double-sided on 30% postconsumer recycled content paper.

A: The use of paper in these types of contracts is incidental to the purpose of the contract. Each agency may determine whether to require deliverables to be printed and copied double-sided on 30% postconsumer fiber paper.

15. Is it sufficient for a contract to have a green product requirement to achieve GPP compliance or should we also audit the actual receipt of the green product(s) specified in the contract?

A: Although at this time, it is sufficient for a contract action to contain green product requirements, some agencies already have fully compliant affirmative procurement programs which address green requirements in contracts, monitor or audit for actual receipt of green products, identify corrective actions and provide necessary staff training. OMB will address these other elements for future year compliance reviews.