

# **Part 523 - Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace**

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**Parent topic:** General Services Administration Acquisition Manual

## **Subpart 523.1 - Sustainable Acquisition Policy**

### **523.101 General.**

FAR [part 23](#) requires GSA to purchase sustainable products and services. This subpart outlines the specific steps the contracting officer or designated acquisition team member must take throughout all procurements to comply with this requirement. In accordance with GSAM [523.404](#), this Subpart contains the GSA affirmative procurement program.

### **523.102 Definitions.**

[Reserved]

## **523.103 Applicability.**

This policy applies to contract actions executed by GSA personnel, whether in support of GSA operations or on behalf of another agency.

## **523.104 Procedures.**

### *(a) Pre-Award Procedures.*

(1) *Market Research.* Use the Green Procurement Compilation located within the Sustainable Facilities (SF) Tool at <https://sftool.gov/> to determine whether the intended contract action must include sustainable requirements in accordance with FAR part 23 if not already detailed in the requirements package (see [511.002](#) (a)).

### *(2) Requirement Development.*

(i) Consider the sustainability requirements discussed in FAR 11.002(d) and [511.002\(a\)](#) and ensure coordination, as necessary, with any designated sustainability point of contact (see [504.7104](#)).

(ii) Include post-award procedures for verifying contractor compliance with sustainable requirements contained in the contract. For best practices in verifying evidence of compliance, review the Verification Guide for Purchasers of Sustainable Products available at <https://sftool.gov/>.

(iii) If a procurement cannot comply with the minimum sustainable requirements as outlined in GSAM [523.104\(a\)\(1\)](#) due to significant impact on cost, schedule, or performance, the contracting officer must document the exception used and supporting rationale as detailed in GSAM [523.105](#).

(3) *Acquisition Planning.* The contracting officer shall follow [507.104](#) for acquisition plan requirements for addressing sustainable acquisition requirements.

(4) *Solicitation.* If the procurement has sustainable requirements, confirm that all applicable provisions and clauses are included in the solicitation and that the statement of work or specification contains the minimum sustainable requirements.

(b) *Award Procedures.* Review GSAM [504.606\(b\)](#) for instructions on GSA FPDS sustainability coding. The GSA FPDS Sustainability Code Guidelines provides instructions on reporting sustainability data for individual procurements in FPDS and can be found on GSA's Acquisition Portal at <https://insite.gsa.gov/acquisitionportal>.

### *(c) Post-Award Procedures.*

#### *(1) Receipt of Sustainable Products and Services.*

(i) The contracting officer must take reasonable steps to validate any required sustainable products and/or services were received. Review the best available evidence of compliance such as manufacturer product documentation, design submittals, and federal or third party ecolabels. Utilize random sampling techniques when reviewing documents/evidence to limit the time required for review. Staff/Service Offices may prioritize which products and/or services to focus on when performing compliance reviews.

(ii) The contracting officer must note any discrepancies with sustainable acquisition requirements in

the contract and take the appropriate corrective action. For best practices in verifying evidence of compliance, review the Verification Guide for Purchasers of Sustainable Products at <https://sftool.gov/>.

(2) *Contractor Sustainability Reports*. The contracting officer must confirm that any required sustainability reports are submitted by the contractor.

(i) *Biobased Report*. For service or construction contracts that include FAR Clause 52.223-2, the contractor must provide annual information on the USDA-designated biobased products (BioPreferred products) purchased each fiscal year by submitting a report in the System for Award Management. If this reporting is required by the contract, the contracting officer must take the following steps:

(A) Review the reports submitted by the contractor in SAM for reasonableness.

(B) Report any non-compliance by the contractor within the "Other Areas" portion of the CPARS evaluation form.

(ii) *Recycled Content Report*.

(A) FAR Clause 52.223-9 requires the contractor to submit a report to the contracting officer that estimates the percentage of the total recovered material content for the Environmental Protection Agency's Comprehensive Procurement Guidelines (CPG) designated products delivered and/or used in contract performance. Only include this clause when a contract meets both of the following criteria:

(1) The contract requires (CPG) products that are not commercial off-the-shelf products; and

(2) The value of the contract is over \$150,000.

(B) If this reporting is required by the contract, the contracting officer must-

(1) Review the report submitted by the contractor for reasonableness.

(2) Report any non-compliance by the contractor within "Other Areas" portion of the CPARS evaluation form.

### **523.105 Sustainability Exceptions.**

(a) *Allowable Exceptions*. An exception for acquiring sustainable products or services is available if any of the following conditions exist:

(1) Product or service cannot be acquired competitively within a reasonable performance schedule.

(2) Product or service cannot be acquired that meets reasonable performance requirements.

(3) Product or service cannot be acquired at a reasonable price.

(i) The price shall be deemed unreasonable when the total life cycle costs are significantly higher for the sustainable product or service versus the non-sustainable product or service.

(ii) For more information on conducting a life cycle cost analysis (LCCA), review the guidance

available at <https://sftool.gov/>.

(4) A specific statutory exemption applies.

(b) *Documentation Process.* If at any point during the acquisition the contracting officer determines that a contract action cannot comply with the sustainable requirements outlined in GSAM [523.104\(a\)\(1\)](#) due to an allowable exception, the contracting officer must document within the contract file the exception being used under GSAM [523.105\(a\)](#) and provide supporting rationale for using the exception. The exception can be documented in the Environmental and Energy Conservation Objectives section of the acquisition plan under FAR 7.105(b)(17) or in a separate memorandum that is included in the Acquisition Plan section of the contract file.

## **523.106 Compliance Monitoring and Reporting.**

(a) *Review Process.* GSA Office of Acquisition Policy is responsible for monitoring and reporting sustainable acquisition activity to the GSA Chief Sustainability Officer in support of the agency's semiannual status report to Office of Management and Budget. This semiannual audit covers only applicable contract actions as defined in GSAM [523.103](#). This review will utilize existing GSA databases and processes to the maximum extent practicable in order to limit manual data collection. These reviews will focus on ensuring that GSA requires and receives sustainable products and services in all applicable acquisitions.

(b) *Determining Compliance.* See the GSA Sustainable Acquisition Review Criteria document available on GSA's Acquisition Portal at <https://insite.gsa.gov/acquisitionportal> for the specific criteria that will be used to determine compliance with sustainable acquisition reviews.

## **Subpart 523.3 - Hazardous Material Identification and Material Safety Data**

### **523.303 Contract clauses.**

(a) Insert the clause at [552.223-70](#), Hazardous Substances, in solicitations and contracts for packaged items subject to the Federal Hazardous Substances Act and the Hazardous Materials Transportation Act.

(b) Insert the clause at [552.223-71](#), Nonconforming Hazardous Materials, in solicitations and contracts for supplies that contain hazardous materials.

(c) Insert the clause at [552.223-73](#), Preservation, Packaging, Packing, Marking, and Labeling of Hazardous Materials (HAZMAT) for Shipments, in solicitations and contracts for packaged items containing hazardous materials.

### **523.370 Solicitation provision.**

Insert the provision at [552.223-72](#), Hazardous Material Information, in solicitations that provide for the delivery of hazardous materials on an f.o.b. origin basis.

## **Subpart 523.4 - Use of Recovered Materials and Biobased Products**

**523.403**

**523.404 Agency affirmative procurement programs.**

GSA's affirmative procurement program is located within [subpart 523.1](#), Sustainable Acquisition Policy.