## 23.109 Solicitation provisions and contract clauses.

- (a) *General*. Insert the clause at <u>52.223-23</u>, *Sustainable Products and Services*, in *solicitations* and contracts—
- (1) Unless—
- (i) The requiring activity has provided a written justification that it is not practicable to procure *sustainable products and services* (see <u>23.104(a)</u>);
- (ii) An exception under 23.105 applies; or
- (iii) An exemption under 23.106 applies; and
- (2) The scope of the written justification, exception, or exemption covers the entirety of the *contract action* requirements.
- (b) *EPA-designated items*. Except for the *acquisition* of COTS items—
- (1) Insert the provision at <u>52.223-4</u>, *Recovered Material* Certification, in *solicitations* that require the delivery or specify the use of EPA-designated items; and
- (2) Insert the clause at <u>52.223-9</u>, Estimate of Percentage of *Recovered Material* Content for EPA-designated Items, in *solicitations* and contracts exceeding \$200,000 that are for, or specify the use of, EPA-designated items containing *recovered materials*. If technical personnel advise that estimates can be verified, use the clause with its *Alternate* I.
- (c) Biobased products in USDA-designated product categories.
- (1) Insert the provision at <u>52.223-1</u>, *Biobased Product* Certification, in *solicitations*, other than for *acquisitions* described at <u>23.105(d)</u>, that—
- (i) Require the delivery or specify the use of *biobased products* in *USDA*-designated product categories; or
- (ii) Include the clause at <u>52.223-2</u>.
- (2) Insert the clause at <u>52.223-2</u>, Reporting of *Biobased Products* Under Service and *Construction* Contracts, in service and *construction solicitations* and contracts, unless the contract will not involve the use of *biobased products* in *USDA*-designated product categories at <a href="https://www.biopreferred.gov">https://www.biopreferred.gov</a> or <u>7 CFR part 3201</u>.
- (d) *Products containing ozone-depleting substances and hydrofluorocarbons.* Except for contracts for *supplies* that will be delivered outside the *United States* and its *outlying areas*, or contracts for services that will be performed outside the *United States* and its *outlying areas*, insert the following clauses:
- (1) <u>52.223-11</u>, *Ozone-Depleting Substances* and High Global Warming Potential *Hydrofluorocarbons*, in *solicitations* and contracts for-

- (i) Refrigeration equipment (in product or service code (PSC) 4110);
- (ii) Air conditioning equipment (PSC 4120);
- (iii) Clean agent fire suppression systems/equipment (e.g., installed room flooding systems, portable fire extinguishers, aircraft/tactical vehicle fire/explosion suppression systems) (in PSC 4210);
- (iv) Bulk refrigerants and fire suppressants (in PSC 6830);
- (v) Solvents, dusters, freezing compounds, mold release agents, and any other miscellaneous chemical specialty that *may* contain *ozone-depleting substances* or high global warming potential *hydrofluorocarbons* (in PSC 6850);
- (vi) Corrosion prevention compounds, foam sealants, aerosol mold release agents, and any other preservative or sealing compound that *may* contain *ozone-depleting substances* or high global warming potential *hydrofluorocarbons* (in PSC 8030);
- (vii) Fluorocarbon lubricants (primarily aerosols) (in PSC 9150); and
- (viii) Any other manufactured end products that may contain or be manufactured with ozone-depleting substances.
- (2) <u>52.223-12</u>, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners, in *solicitations* and contracts that include the maintenance, service, repair, or disposal of-
- (i) Refrigeration equipment, such as refrigerators, chillers, or freezers; or
- (ii) Air conditioners, including air conditioning systems in motor vehicles.
- (3) <u>52.223-20</u>, Aerosols, in *solicitations* and contracts—
- (i) For *products* that *may* contain high global warming potential *hydrofluorocarbons* as a propellant, or as a solvent; or
- (ii) That involve maintenance or repair of electronic or mechanical devices.
- (4) 52.223-21, Foams, in solicitations and contracts for—
- (i) *Products* that *may* contain high global warming potential *hydrofluorocarbons* or refrigerant blends containing *hydrofluorocarbons* as a foam blowing agent, such as building foam insulation or appliance foam insulation; or
- (ii) Construction of buildings or facilities.

Parent topic: Subpart 23.1 - Sustainable Products and Services