

year, on matters related to the acquisition of items designated in EPA's Comprehensive Procurement Guidelines that Federal agencies and their Contractors are to procure with recovered/recycled content.

(d) If the Contractor subcontracts a significant portion of the operation of the Government facility which includes the acquisition of items designated in EPA's Comprehensive Procurement Guidelines, the subcontract shall contain a clause substantially the same as this clause. The EPA Comprehensive Procurement Guidelines identify products which Federal agencies and their Contractors are to procure with recycled content pursuant to 40 CFR 247. Examples of such a subcontract would be operation of the facility supply function, construction or remodeling at the facility, or maintenance of the facility motor vehicle fleet. In situations in which the facility management Contractor can reasonably determine the amount of products with recovered/recycled content to be acquired under the subcontract, the facility management Contractor is not required to flow down the reporting requirement of this clause. Instead, the facility management Contractor may include such quantities in its own report and include an agreement in the subcontract that such products will be acquired with recovered/recycled content and that the subcontractor will advise if it is unable to procure such products with recovered/recycled content because the product is not available:

- (i) Competitively within a reasonable time;
- (ii) At a reasonable price; or,
- (iii) Within the performance requirements.

If reports are required of the subcontractor, such reports shall be submitted to the facility management Contractor. The reports may be submitted at the conclusion of the subcontract term provided that the subcontract delivery term is not multi-year in nature. If the delivery term is multi-year, the subcontractor shall report its accomplishments for each Federal fiscal year in a manner and at a time or times acceptable to both parties

(e) When this clause is used in a subcontract, the word "Contractor" will be understood to mean "subcontractor" and the term "DOE Recycling Coordinator" will be understood to mean "Contractor Recycling Coordinator."

[68 FR 6359, Feb. 7, 2003, as amended at 74 FR 36378, July 22, 2009]

EFFECTIVE DATE NOTE: At 75 FR 57695, Sept. 22, 2010, 970.5223-2 was removed, effective October 22, 2010.

970.5223-3 Agreement regarding Workplace Substance Abuse Programs at DOE sites.

As prescribed in 970.2305-4(a), the contracting officer shall insert the following provision:

AGREEMENT REGARDING WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (DEC 2000)

(a) Any contract awarded as a result of this solicitation will be subject to the policies, criteria, and procedures of 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites.

(b) By submission of its offer, the officer agrees to provide to the Contracting Officer, within 30 days after notification of selection for award, or award of a contract, whichever occurs first, pursuant to this solicitation, its written workplace substance abuse program consistent with the requirements of 10 CFR part 707.

(c) Failure of the offeror to agree to the condition of responsibility set forth in paragraph (b) of this provision, renders the offeror unqualified and ineligible for award.

(End of provision)

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36380, July 22, 2009]

970.5223-4 Workplace Substance Abuse Programs at DOE Sites.

As prescribed in 970.2305-4(b), insert the following clause:

WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (DEC 2000)

(a) *Program implementation.* The Contractor shall, consistent with 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, incorporated herein by reference with full force and effect, develop, implement, and maintain a workplace substance abuse program.

(b) *Remedies.* In addition to any other remedies available to the Government, the Contractor's failure to comply with the requirements of 10 CFR part 707 or to perform in a manner consistent with its approved program may render the Contractor subject to: the suspension of contract payments, or, where applicable, a reduction in award fee; termination for default; and suspension or debarment.

(c) *Subcontracts.* (1) The Contractor agrees to notify the Contracting Officer reasonably in advance of, but not later than 30 days prior to, the award of any subcontract the Contractor believes may be subject to the requirements of 10 CFR part 707.