

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Amend section 52.101 in paragraph (a) by revising the definition “Substantially as follows”; and by revising paragraph (d) to read as follows:

52.101 Using Part 52.

(a) * * *

Substantially as follows or substantially the same as, when used in the prescription of a provision or clause, means that authorization is granted to prepare and utilize a variation of that provision or clause to accommodate requirements that are peculiar to an individual acquisition. Any variation must include the salient features of the FAR provision or clause, and must be consistent with the intent, principle, and substance of the FAR provision or clause or related coverage of the subject matter.

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(d) *Introductory text.* Within Subpart 52.2, the introductory text of each provision or clause includes a cross-reference to the location in the FAR subject text that prescribes its use.

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5. Amend section 52.104 by revising paragraph (a) to read as follows:

52.104 Procedures for modifying and completing provisions and clauses.

(a) The contracting officer must not modify provisions and clauses unless the FAR authorizes their modification. For example—

(1) “The contracting officer may use a period shorter than 60 days (but not less than 30 days) in paragraph (x) of the clause”; or

(2) “The contracting officer may substitute the words ‘task order’ for the word ‘Schedule’ wherever that word appears in the clause.”

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6. Amend section 52.105 by revising paragraph (a) to read as follows:

52.105 Procedures for using alternates.

(a) The FAR accommodates a major variation in a provision or clause by use of an alternate. The FAR prescribes alternates to a given provision or clause in the FAR subject text where the provision or clause is prescribed. The alternates to each provision or clause are titled “Alternate I,” “Alternate II,” “Alternate III,” etc.

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7. Revise section 52.200 to read as follows:

52.200 Scope of subpart.

This subpart sets forth the text of all FAR provisions and clauses (see 52.101(b)(1)) and gives a cross-reference to the location in the FAR that prescribes the provision or clause.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 4, 7, 11, 13, 23, and 52

[FAC 97-18; FAR Case 1998-015 (98-015); Item III]

RIN 9000-AI49

Federal Acquisition Regulation; Requirements Supporting Procurement of Recycled Products and Environmentally Preferable Services

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13101, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition, dated September 14, 1998.

DATES: *Effective Date:* August 7, 2000.

Applicability Date: The FAR, as amended by this rule, is applicable to solicitations issued on or after August 7, 2000.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501-4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Paul Linfield, Procurement Analyst, at (202) 501-1757. Please cite FAC 97-18, FAR case 1998-015.

SUPPLEMENTARY INFORMATION:

A. Background

DoD, GSA, and NASA published a proposed rule in the *Federal Register* at 64 FR 51656, September 23, 1999. Seven respondents provided public comments. We considered all comments in finalizing the rule.

This rule amends the FAR to implement E.O. 13101. The rule amends guidance in FAR Subpart 7.1, 11.002(d), Subpart 23.4, Subpart 23.7, and the FAR clauses at 52.223-9 and 52.223-10 to conform with E.O. 13101 and the Resource Conservation and Recovery Act. The rule—

- Revises FAR Subpart 7.1 to ensure that requirements for printing and writing paper meet minimum content requirements specified in the E.O.;
- Revises Subpart 11.3 to add definitions and special requirements to implement E.O. requirements and Environmental Protection Agency (EPA) regulations governing acquisitions of printing and writing paper, and to clarify that contracting officers may include in solicitations additional information requirements when needed to determine if the offeror's product meets requirements for recycled content or related standards;
- Clarifies in Part 13 how the procurement requirements of the Resource Conservation and Recovery Act, 42 U.S.C. 6962, apply to micro-purchases and acquisitions that do not exceed \$100,000; and
- Reorganizes and revises Subparts 23.4 and 23.7 and associated clauses.

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* applies to this final rule. Interested parties may obtain a copy of the a Final Regulatory Flexibility Analysis (FRFA) from the FAR Secretariat.

The Councils' prepared FRFA is summarized as follows:

The objective of the rule is to improve the Government's use of recycled products and environmentally preferable products and services. E.O. 13101 requires revision of the Federal Acquisition Regulation to prescribe policies for the acquisition and use of environmentally preferable products and services through procurement preference programs favoring the purchase of these products and services. The rule primarily affects the internal operating procedures of Government agencies. The provisions affecting small entities are the requirements at FAR 23.705, 52.223-9, and 52.223-10. These provisions of the rule will apply to all Government contractors, both large and small businesses.

The FAR Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104-13) applies because the final rule contains information collection requirements that have been approved by the Office of Management and Budget (OMB) under OMB Control Number 9000-0134. The final rule reduces the annual reporting burden for OMB Control Number 9000-0134 estimated at 32,175 hours. This estimate was based on 64,350 respondents and a preparation time estimated at .5 hour per response. In the proposed rule, we estimated that removal of the certification requirement would affect more than one-half of the respondents and reduce preparation time for those respondents by one-third. No comments were received on this estimate.

As a result, we estimate the revised annual reporting burden to be as follows:

Respondents: 64,350;

Responses per respondent: 1;

Total annual responses: 64,350;

Preparation hours per response: 25 minutes;

Total response burden hours: 26,800.

List of Subjects in 48 CFR Parts 2, 4, 7, 11, 13, 23, and 52

Government procurement.

Dated: May 26, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 4, 7, 11, 13, 23, and 52 as set forth below:

1. The authority citation for 48 CFR parts 2, 4, 7, 11, 13, 23, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

2. Amend section 2.101 by adding, in alphabetical order, the definitions "Energy-efficient product", "Environmentally preferable", "Pollution prevention", "Recovered material", "Virgin material", and "Waste reduction" to read as follows:

2.101 Definitions.

* * * * *

Energy-efficient product means a product in the upper 25 percent of efficiency for all similar products or, if there are applicable Federal appliance or equipment efficiency standards, a product that is at least 10 percent more efficient than the minimum Federal standard.

Environmentally preferable means products or services that have a lesser

or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service.

* * * * *

Pollution prevention means any practice that—

(a)(1) Reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal; and

(2) Reduces the hazards to public health and the environment associated with the release of such substances, pollutants, and contaminants;

(b) Reduces or eliminates the creation of pollutants through increased efficiency in the use of raw materials, energy, water, or other resources; or

(c) Protects natural resources by conservation.

* * * * *

Recovered material means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process. For use in Subpart 11.3 for paper and paper products, see the definition at 11.301.

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Virgin material means—

(a) Previously unused raw material, including previously unused copper, aluminum, lead, zinc, iron, other metal or metal ore; or

(b) Any undeveloped resource that is, or with new technology will become, a source of raw materials.

Waste reduction means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

PART 4—ADMINISTRATIVE MATTERS

4.301 [Removed]

4.302–4.304 [Redesignated as 4.301–4.303].

3. Amend Subpart 4.3 by removing section 4.301 and redesignating sections 4.302 through 4.304 as sections 4.301 through 4.303, respectively; and by revising the newly designated sections to read as follows:

Subpart 4.3—Paper Documents

* * * * *

4.301 Definition.

Printed or copied double-sided, as used in this subpart, means printing or reproducing a document so that information is on both sides of a sheet of paper.

4.302 Policy.

When electronic commerce methods (see 4.502) are not being used, a contractor should submit paper documents to the Government relating to an acquisition printed or copied double-sided on recycled paper whenever practicable. If the contractor cannot print or copy double-sided, it should print or copy single-sided on recycled paper.

4.303 Contract clause.

Insert the clause at 52.204-4, Printed or Copied Double-Sided on Recycled Paper, in solicitations and contracts that exceed the simplified acquisition threshold.

PART 7—ACQUISITION PLANNING

4. Amend section 7.103 by revising paragraph (n) to read as follows:

7.103 Agency-head responsibilities.

(n) Ensuring that agency planners—

(1) Specify needs for printing and writing paper consistent with the minimum content standards specified in section 505 of Executive Order 13101 of September 14, 1998, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition (see 11.303); and

(2) Comply with the policy in 11.002(d) regarding procurement of products containing recovered materials, and environmentally preferable and energy-efficient products and services.

PART 11—DESCRIBING AGENCY NEEDS

11.001 [Amended]

5. Amend section 11.001 by removing the definitions "Recovered material" and "Virgin material."

6. Amend section 11.002 by revising paragraph (d) to read as follows:

11.002 Policy.

(d) The Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901, *et seq.*), Executive Order 12902 of March 8, 1994, Energy Efficiency and Water Conservation at Federal Facilities, and Executive Order 13101 of September 14, 1998, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition, establish requirements for the procurement of products containing recovered

materials, and environmentally preferable and energy-efficient products and services. Executive agencies must consider use of recovered materials, environmentally preferable purchasing criteria developed by the EPA, and environmental objectives (see 23.703(b)) when—

(1) Developing, reviewing, or revising Federal and military specifications, product descriptions (including commercial item descriptions), and standards;

(2) Describing Government requirements for supplies and services; and

(3) Developing source selection factors.

7. Subpart 11.3, consisting of sections 11.301 and 11.302, is revised, and sections 11.303 and 11.304 are added to read as follows:

Subpart 11.3—Acceptable Material

11.301 Definitions.

As used in this subpart—

Postconsumer material means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of “recovered material.” For paper and paper products, postconsumer material means “postconsumer fiber” defined by the U.S. Environmental Protection Agency (EPA) as—

(1) Paper, paperboard, and fibrous materials from retail stores, office buildings, homes, and so forth, after they have passed through their end-use as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; or

(2) All paper, paperboard, and fibrous materials that enter and are collected from municipal solid waste; but not

(3) Fiber derived from printers’ overruns, converters’ scrap, and over-issue publications.

Recovered material for paper and paper products, is defined by EPA in its Comprehensive Procurement Guideline as “recovered fiber” and means the following materials:

(1) Postconsumer fiber.

(2) Manufacturing wastes such as—

(i) Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste resulting

from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and

(ii) Repulped finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others.

11.302 Policy.

(a) Agencies must not require virgin material or supplies composed of or manufactured using virgin material unless compelled by law or regulation or unless virgin material is vital for safety or meeting performance requirements of the contract.

(b)(1) When acquiring other than commercial items, agencies must require offerors to identify used, reconditioned, or remanufactured supplies; or unused former Government surplus property proposed for use under the contract. These supplies or property may not be used in contract performance unless authorized by the contracting officer.

(2) When acquiring commercial items, the contracting officer must consider the customary practices in the industry for the item being acquired. The contracting officer may require offerors to provide information on used, reconditioned, or remanufactured supplies, or unused former Government surplus property proposed for use under the contract. The request for the information must be included in the solicitation, and to the maximum extent practicable must be limited to information or standards consistent with normal commercial practices.

(c) When the contracting officer needs additional information to determine whether supplies meet minimum recovered material standards stated in the solicitation, the contracting officer may require offerors to submit additional information on the recycled content or related standards. The request for the information must be included in the solicitation. When acquiring commercial items, limit the information to the maximum extent practicable to that available under normal commercial practices.

11.303 Special requirements for printing and writing paper.

(a) Section 505 of Executive Order 13101, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition, establishes minimum recovered material content standards for agency purchases of printing and writing paper. Section 505 requires that 100 percent of an agency’s

purchases of printing and writing paper must meet or exceed one of the minimum content standards specified in paragraph (b) of this section.

(b) For high-speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white wove envelopes, writing and office paper, book paper, cotton fiber paper, and cover stock, the minimum content standard must be no less than 30 percent postconsumer materials. If paper containing 30 percent postconsumer material is not reasonably available, does not meet reasonable performance requirements, or is only available at an unreasonable price, then the agency must purchase paper containing no less than 20 percent postconsumer material.

11.304 Contract clause.

Insert the clause at 52.211–5, Material Requirements, in solicitations and contracts for supplies that are not commercial items.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

8. Amend section 13.005 by revising paragraph (a)(5) to read as follows:

13.005 Federal Acquisition Streamlining Act of 1994 list of inapplicable laws.

* * * * *

(a) * * *

(5) 42 U.S.C. 6962 (Solid Waste Disposal Act). (The requirement to provide an estimate of recovered material utilized in contract performance does not apply unless the contract value exceeds \$100,000.)

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9. Amend section 13.006 by revising paragraph (g) to read as follows:

13.006 Inapplicable provisions and clauses.

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(g) 52.223–9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products.

10. Amend section 13.201 by adding paragraph (f) to read as follows:

13.201 General.

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(f) The procurement requirements in the Resource Conservation and Recovery Act (42 U.S.C. 6962) and Executive Order 13101 of September 14, 1998, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition, apply to purchases at or below the micro-purchase threshold (see Subpart 23.4).

**PART 23—ENVIRONMENT,
CONSERVATION, OCCUPATIONAL
SAFETY, AND DRUG-FREE
WORKPLACE**

11. Revise section 23.400 to read as follows:

23.400 Scope of subpart.

This subpart prescribes policies and procedures for acquiring Environmental Protection Agency (EPA)—designated products through affirmative procurement programs required by the Resource Conservation and Recovery Act of 1976 (RCRA) (42 U.S.C. 6962) and Executive Order 13101 of September 14, 1998, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition.

23.401 and 23.402 [Redesignate as 23.402 and 23.401]

12. Redesignate sections 23.401 and 23.402 as 23.402 and 23.401, respectively.

13. Revise the newly designated sections 23.401 and 23.402 to read as follows:

23.401 Definition.

EPA-designated product, as used in this subpart, means a product—

- (1) That is or can be made with recovered material;
- (2) That is listed by EPA in a procurement guideline (40 CFR part 247); and
- (3) For which EPA has provided purchasing recommendations in a related Recovered Materials Advisory Notice (RMAN).

23.402 Authorities.

(a) The Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. 6962, requires agencies responsible for drafting or reviewing specifications used in agency acquisitions to—

- (1) Eliminate from those specifications any requirement excluding the use of recovered materials or requiring products to be manufactured from virgin materials; and
- (2) Require, for EPA-designated products, using recovered materials to the maximum extent practicable without jeopardizing the intended end use of the item.

(b) RCRA also requires—

- (1) EPA to prepare guidelines on the availability, sources, and potential uses of recovered materials and associated products, including solid waste management services; and
- (2) Agencies to develop and implement affirmative procurement programs for EPA-designated products within 1 year after EPA's designation.

(c) Executive Order 13101 requires that the agency head—

(1) Work to increase and expand markets for recovered materials through greater Government preference and demand for such products consistent with the demands of efficiency and cost-effectiveness; and

(2) Develop and implement affirmative procurement programs in accordance with direction in RCRA and the Executive order.

14. Revise section 23.403 to read as follows:

23.403 Policy.

Government policy on the use of recovered materials considers cost, availability of competition, and performance. The objective is to acquire competitively, in a cost-effective manner, products that meet reasonable performance requirements and that are composed of the highest percentage of recovered materials practicable.

23.404–23.405 [Redesignated as 23.405 and 23.406]

15. Redesignate sections 23.404 and 23.405 as 23.405 and 23.406, respectively; add a new section 23.404; and revise the redesignated sections to read as follows:

23.404 Agency affirmative procurement programs.

(a) For EPA-designated products, an agency must establish an affirmative procurement program, if the agency's purchases meet the threshold in 23.405(a). Technical or requirements personnel and procurement personnel are responsible for the preparation, implementation, and monitoring of affirmative procurement programs. Agency affirmative procurement programs must include—

- (1) A recovered materials preference program;
- (2) An agency promotion program;
- (3) A program for requiring reasonable estimates, certification, and verification of recovered material used in the performance of contracts; and
- (4) Annual review and monitoring of the effectiveness of the program.

(b) Agency affirmative procurement programs must require that 100 percent of purchases of EPA-designated products contain recovered material, unless the item cannot be acquired—

- (1) Competitively within a reasonable time frame;
- (2) Meeting appropriate performance standards; or
- (3) At a reasonable price.

(c) Agency affirmative procurement programs must provide guidance for purchases of EPA-designated products

at or below the micro-purchase threshold.

23.405 Procedures.

(a) These procedures apply to all agency acquisitions of EPA-designated products, including micro-purchases, if—

(1) The price of the product exceeds \$10,000; or

(2) The aggregate amount paid for products, or for functionally equivalent products, in the preceding fiscal year was \$10,000 or more. RCRA requires that an agency include micro-purchases in determining if the aggregate amount paid was \$10,000 or more. However, it is not recommended that an agency track micro-purchases unless it intends to claim an exemption from the requirement to establish an affirmative procurement program in the following fiscal year.

(b) Contracting officers should refer to EPA's list of EPA-designated products (available via the Internet at <http://www.epa.gov/cpg/>) and to their agencies' affirmative procurement programs when purchasing supplies that contain recovered material or services that could include supplies that contain recovered material.

(c) The contracting officer must place in the contract file a written justification if an acquisition of EPA-designated products above the micro-purchase threshold does not contain recovered material. If the agency has designated an Environmental Executive, the contracting officer must give a copy of the written justification to that official. The contracting officer must base the justification on the inability to acquire the product—

(1) Competitively within a reasonable period of time;

(2) At reasonable prices; or

(3) To reasonable performance standards in the specifications, provided a written determination by technical or requirements personnel of the performance standard's reasonableness is included with the justification. The technical and requirements personnel must base their determination on National Institute of Standards and Technology guidelines, if available.

(d) Agencies must establish procedures for consolidating and reporting contractor estimates required by the clause at 52.223–9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products.

23.406 Solicitation provision and contract clause.

(a) Insert the provision at 52.223–4, Recovered Material Certification, in

solicitations that are for, or specify the use of, recovered materials.

(b) Insert the clause at 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products, in solicitations and contracts exceeding \$100,000 that include the provision at 52.223-4. If technical personnel advise that estimates can be verified, use the clause with its Alternate I.

16. Redesignate section 23.701 as 23.700 and revise the section heading; and add a new 23.701 to read as follows:

23.700 Scope.

* * * * *

23.701 Definition.

Biobased product, as used in this subpart, means a commercial or industrial product (other than food or feed) that utilizes biological products or renewable domestic agricultural (plant, animal, and marine) or forestry materials.

17. Amend section 23.702 by removing paragraph (d); redesignate paragraphs (e) and (f) as (d) and (e) and revise; and add a new paragraph (f) to read as follows:

23.702 Authorities.

* * * * *

(d) Executive Order 12856, of August 3, 1993, Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements.

(e) Executive Order 12902, of March 8, 1994, Energy Efficiency and Water Conservation at Federal Facilities.

(f) Executive Order 13101 of September 14, 1998, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition.

23.703 [Removed]

23.704-23.706 [Redesignated as 23.703-23.705]

18. Remove section 23.703 and redesignate sections 23.704 through 23.706 as 23.703 through 23.705, respectively.

19. Revise the newly designated sections 23.703 through 23.705 to read as follows:

23.703 Policy.

Agencies must—

(a) Implement cost-effective contracting preference programs favoring the acquisition of environmentally preferable and energy-efficient products and services; and

(b) Employ acquisition strategies that affirmatively implement the following environmental objectives:

(1) Maximize the utilization of environmentally preferable products

and services (based on EPA-issued guidance).

(2) Maximize the utilization of energy-efficient products.

(3) Eliminate or reduce the generation of hazardous waste and the need for special material processing (including special handling, storage, treatment, and disposal).

(4) Promote the use of nonhazardous and recovered materials.

(5) Realize life-cycle cost savings.

(6) Promote cost-effective waste reduction when creating plans, drawings, specifications, standards, and other product descriptions authorizing material substitutions, extensions of shelf-life, and process improvements.

(7) Consider the use of biobased products.

23.704 Application to Government-owned or -leased facilities.

Executive Order 13101, Section 701, requires that contracts for contractor operation of a Government-owned or -leased facility and contracts for support services at a Government-owned or -operated facility include provisions that obligate the contractor to comply with the requirements of the order. Compliance includes developing programs to promote and implement cost-effective waste reduction and affirmative procurement programs required by 42 U.S.C. 6962 for all products designated in EPA's Comprehensive Procurement Guideline (40 CFR part 247).

23.705 Contract clause.

Insert the clause at 52.223-10, Waste Reduction Program, in all solicitations and contracts for contractor operation of Government-owned or -leased facilities and all solicitations and contracts for support services at Government-owned or -operated facilities.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

20. Revise the section heading and text of 52.204-4 to read as follows:

52.204-4 Printed or Copied Double-Sided on Recycled Paper.

As prescribed in 4.303, insert the following clause:

Printed or Copied Double-Sided on Recycled Paper (August 2000)

(a) *Definitions.* As used in this clause—
Postconsumer material means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of "recovered material." For paper and paper products, postconsumer material means "postconsumer

fiber" defined by the U.S. Environmental Protection Agency (EPA) as—

(1) Paper, paperboard, and fibrous materials from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; or

(2) All paper, paperboard, and fibrous materials that enter and are collected from municipal solid waste; but not

(3) Fiber derived from printers' over-runs, converters' scrap, and over-issue publications.

Printed or copied double-sided means printing or reproducing a document so that information is on both sides of a sheet of paper.

Recovered material, for paper and paper products, is defined by EPA in its Comprehensive Procurement Guideline as "recovered fiber" and means the following materials:

(1) Postconsumer fiber; and

(2) Manufacturing wastes such as—

(i) Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and

(ii) Repulped finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others.

(b) In accordance with Section 101 of Executive Order 13101 of September 14, 1998, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition, the Contractor is encouraged to submit paper documents, such as offers, letters, or reports, that are printed or copied double-sided on recycled paper that meet minimum content standards specified in Section 505 of Executive Order 13101, when not using electronic commerce methods to submit information or data to the Government.

(c) If the Contractor cannot purchase high-speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white wove envelopes, writing and office paper, book paper, cotton fiber paper, and cover stock meeting the 30 percent postconsumer material standard for use in submitting paper documents to the Government, it should use paper containing no less than 20 percent postconsumer material. This lesser standard should be used only when paper meeting the 30 percent postconsumer material standard is not obtainable at a reasonable price or does not meet reasonable performance standards. (End of clause)

21. Amend section 52.211-5 by revising the introductory text, the date of the clause, the definitions "Recovered

material” and “Virgin material”, and paragraphs (b) and (e) to read as follows:

52.211-5 Material Requirements.

As prescribed in 11.304, insert the following clause:

MATERIAL REQUIREMENTS (August 2000)

(a) * * *

* * * * *

Recovered material means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

* * * * *

Virgin material means—

(1) Previously unused raw material, including previously unused copper, aluminum, lead, zinc, iron, other metal or metal ore; or

(2) Any undeveloped resource that is, or with new technology will become, a source of raw materials.

(b) Unless this contract otherwise requires virgin material or supplies composed of or manufactured from virgin material, the Contractor shall provide supplies that are new, reconditioned, or remanufactured, as defined in this clause.

* * * * *

(e) Used, reconditioned, or remanufactured supplies, or unused former Government surplus property, may be used in contract performance if the Contractor has proposed the use of such supplies, and the Contracting Officer has authorized their use.
(End of clause)

22. Amend section 52.212-5 by revising the date of the clause; by redesignating paragraphs (b)(16) through (b)(26) as (b)(17) through (b)(27), respectively; and by adding a new paragraph (b)(16) to read as follows:

52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (August 2000)

* * * * *

(b) * * *

(16)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (42 U.S.C. 6962(c)(3)(A)(ii)).

(ii) Alternate I of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).

* * * * *

52.223-4 [Amended]

23. Amend the introductory text of section 52.223-4 by revising the citation “23.405(a)” to read “23.406(a)”.

24. Revise the section heading and text of 52.223-9 to read as follows:

52.223-9 Estimate of Percentage of Recovered Material Content for EPA-Designated Products.

As prescribed in 23.406(b), insert the following clause:

Estimate of Percentage of Recovered Material Content for EPA-Designated Products (August 2000)

(a) *Definitions.* As used in this clause—
Postconsumer material means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of “recovered material.”

Recovered material means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(b) The Contractor, on completion of this contract, shall—

(1) Estimate the percentage of the total recovered material used in contract performance, including, if applicable, the percentage of postconsumer material content; and

(2) Submit this estimate to
[Contracting Officer
complete in accordance with agency
procedures].
(End of clause)

Alternate I (August 2000). As prescribed in 23.406(b), redesignate paragraph (b) of the basic clause as paragraph (c) and add the following paragraph (b) to the basic clause:

(b) The Contractor shall execute the following certification required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6962(i)(2)(C)):

Certification

I, _____ (name of certifier), am an officer or employee responsible for the performance of this contract and hereby certify that the percentage of recovered material content for EPA-designated products met the applicable contract specifications.

(Signature of the Officer or Employee)

(Typed Name of the Officer or Employee)

(Title)

(Name of Company, Firm, or Organization)

(Date)

(End of certification)

25. Revise section 52.223-10 to read as follows:

52.223-10 Waste Reduction Program.

As prescribed in 23.705, insert the following clause:

Waste Reduction Program (August 2000)

(a) *Definitions.* As used in this clause—
Recycling means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials

in the manufacture of products other than fuel for producing heat or power by combustion.

Waste prevention means any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials.

Waste reduction means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

(b) Consistent with the requirements of Section 701 of Executive Order 13101, the Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract. The Contractor's programs shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, *et seq.*) and implementing regulations (40 CFR part 247).
(End of clause)

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 4

[FAC 97-18; FAR Case 1999-615; Item IV]

RIN 9000-AI77

Federal Acquisition Regulation; General Records Schedules

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to implement the revised National Archives and Records Administration General Records Schedule 3, Procurement, Supply, and Grants Records (NARA Schedule 3), dated December 15, 1998.

DATES: *Effective Date:* August 7, 2000.

Applicability Date: The FAR, as amended by this rule, is applicable to solicitations issued on or after August 7, 2000.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS