Subpart 23.1 - Sustainable Acquisition Policy


23.101 Definition.

As used in this subpart-

*Contract action* means any oral or written action that results in the purchase, rent, or lease of supplies or equipment, services, or construction using appropriated dollars, including purchases below the micro-purchase threshold. Contract action does not include grants, cooperative agreements, other transactions, real property leases, requisitions from Federal stock, training authorizations, or other non-FAR based transactions.

23.102 Authorities.


(c) All of the authorities specified in subparts 23.2, 23.4, 23.7, 23.8, 23.9, and 23.10.

23.103 Sustainable acquisitions.

(a) *Federal agencies* shall advance sustainable acquisition by ensuring that 95 percent of new *contract actions* for the supply of products and for the acquisition of services (including construction) require that the products are-

1. Energy-efficient (ENERGY STAR® or Federal Energy Management Program (FEMP)-designated);
2. Water-efficient;
3. Biobased;
4. Environmentally preferable (e.g., EPEAT®-registered, or non-toxic or less toxic alternatives);
5. Non-ozone depleting; or

(b) The required products in the *contract actions* for services include products that are-
(1) Delivered to the Government during performance;

(2) Acquired by the contractor for use in performing services at a Federally-controlled facility; or

(3) Furnished by the contractor for use by the Government.

c. The required products in the contract actions must meet agency performance requirements.

d. For purposes of meeting the 95 percent sustainable acquisition requirement, the term "contract actions" includes new contracts (and task and delivery orders placed against them) and new task and delivery orders on existing contracts.

23.104 Exceptions.

This subpart does not apply to the following acquisitions:

(a) Contracts performed outside of the United States, unless the agency head determines that such application is in the interest of the United States.

(b) Weapon systems.

23.105 Exemption authority.

(a) The head of an agency may exempt-

1. Intelligence activities of the United States, and related personnel, resources, and facilities, to the extent the Director of National Intelligence or agency head determines it necessary to protect intelligence sources and methods from unauthorized disclosure;

2. Law enforcement activities of that agency and related personnel, resources, and facilities, to the extent the head of an agency determines it necessary to protect undercover operations from unauthorized disclosure;

3. Law enforcement, protective, emergency response, or military tactical vehicle fleets of that agency; and

4. Agency activities and facilities in the interest of national security.

(b) If the head of the agency issues an exemption under paragraph (a) of this section, the agency must notify the Chair of the Council on Environmental Quality in writing within 30 days of the issuance of the exemption.

(c) The agency head may submit through the Chair of the Council on Environmental Quality a request for exemption of an agency activity other than those activities listed in paragraph (a) of this section and related personnel, resources, and facilities.