

23.109 Solicitation provisions and contract clauses.

(a) *General*. Insert the clause at 52.223-23, *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 23.104(a));

(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 52.223-4, *Recovered Material Certification*, in *solicitations* that require the delivery or specify the use of EPA-designated items; and

(2) Insert the clause at 52.223-9, *Estimate of Percentage of Recovered Material Content for EPA-designated Items*, in *solicitations* and contracts exceeding \$150,000 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 52.223-1, *Biobased Product Certification*, in *solicitations*, other than for *acquisitions* described at 23.106(d), that—

(i) Require the delivery or specify the use of *biobased products* in *USDA-designated product categories*; or

(ii) Include the clause at 52.223-2.

(2) Insert the clause at 52.223-2, *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 <https://www.biopreferred.gov> or 7 CFR part 3201.

(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) 52.223-11, *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) 52.223-12, 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) 52.223-20, 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