

Subpart 23.1 - Sustainable Acquisition Policy

Parent topic: [Part 23 - Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace](#)

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.

- (a) Executive Order 13423 of January 24, 2007, Strengthening Federal *Environmental*, Energy, and Transportation Management.
- (b) Executive Order 13514 of October 5, 2009, Federal Leadership in *Environmental*, Energy, and Economic Performance.
- (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
- (6) Made with *recovered materials*.

(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.