

SUSTAINABLE ACQUISITION PROGRAM – CONSTRUCTION (December 2018)

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- (a) This clause applies to first tier subcontracts that exceed \$250,000 and offer significant opportunities for designating energy efficient or environmentally sustainable products or services in the materials selection process. The Seller will comply with the procedures in this clause regarding the collection of all data necessary to generate the reports required of this clause.
- (b) The clauses at FAR 52.223-2, Affirmative Procurement of Biobased Products under Service and Construction Contracts, 52.223-15, Energy Efficiency in Energy Consuming Products, and 52.223-17 Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts, require the use of products that have biobased content, are energy efficient, or have recycled content. To the extent that the services provided by the Seller require provision of any of the above types of products, the Seller must provide the energy efficient and environmentally sustainable type of product unless that type of product—
- (1) Is not available;
 - (2) Is not life cycle cost effective (or does not exceed 110% of the price of alternative items if life cycle cost data is unavailable). EPEAT is an example of lifecycle costs that have been analyzed by DOE and found to be acceptable at the silver and gold level;
 - (3) Does not meet performance needs; or,
 - (4) Cannot be delivered in time to meet a critical need.
- (c) In the performance of this contract, the Seller shall comply with the requirements of Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management, (<http://www.epa.gov/greeningepa/practices/eo13423.htm>) and Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance (<http://www.archives.gov/federal-register/executive-orders/disposition.html>). The Seller shall also consider the best practices within the DOE Acquisition Guide, Chapter 23, *Acquisition Considerations Regarding Federal Leadership in Environmental, Energy, and Economic Performance*. This guide includes information concerning recycled content products, biobased products, energy efficient products, water efficient products, alternative fuels and vehicles, non ozone depleting substances and other environmentally preferable products and services. This guide is available on the Internet at: <https://www.energy.gov/sites/prod/files/maprod/documents/AcqGuide23pt0Rev1.pdf>
- (d) When developing the Bill of Materials for approval of the Company, the Seller shall specify energy efficient and environmentally sustainable materials to the extent possible within the constraints of the general design specifications. Compliance with the *Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings* (Guiding Principles) shall be achieved through certification to the Leadership in Energy and Environmental Design (LEED) Gold level under the LEED rating system most suited to the building type.
- (e) (1) In complying with the requirements of the paragraph (b) of this clause, the Seller shall coordinate its activities with and submit required reports through the Subcontract Administrator. Reporting under this clause is only required if the subcontract offers subcontracting opportunities for energy efficient and environmentally sustainable products or services exceeding \$100,000 in any contract year, except for reporting on high performance sustainable buildings which may be required elsewhere in this subcontract.
- (2) The Seller will advise the Company if it is unable to procure energy efficient and environmentally sustainable items and cite which of the reasons in paragraph (b) of this clause apply.
 - (3) Reports shall be submitted before submittal of the final invoice; provided, the subcontract delivery term is not multi-year (fiscal) in nature. If the delivery term is multi-year (fiscal), the Seller shall report its accomplishments for each Federal fiscal year.
 - (4) Failure to comply with these reporting requirements may be considered a breach of contract with attendant consequences.
(Clause modeled on DEAR 952.223-78, Alternate 1).