

# JAR PART 2823 ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

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2823.404-70 Affirmative Procurement Program for Recycled Materials.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 28 CFR 0.76(j).

## **PART 2823 ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE**

### **SUBPART 2823.1 - POLLUTION CONTROL AND CLEAN AIR AND WATER**

#### **2823.107 Compliance responsibilities.**

If a contracting officer becomes aware of noncompliance with clean air, water or other affected media standards in facilities used in performing nonexempt contracts, that contracting officer shall notify the Department of Justice Environmental Executive (DOJEE).

## **SUBPART 2823.3 - HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA**

### **2823.303-70 Departmental contract clause.**

The contracting officer shall insert the clause at: [2852.223-70](#), Unsafe Conditions Due to the Presence of Hazardous Material, in all solicitations and contracts, as appropriate, if the contract will require the performance of services on Government-owned or Government-leased facilities.

## **SUBPART 2823.4 - USE OF RECOVERED MATERIALS**

### **2823.403 Policy.**

It is the policy of DOJ that its contracting activities and contractors that procure on behalf of DOJ, acquire EPA designated items in accordance with EPA's Comprehensive Procurement Guideline For Products Containing Recovered Materials (CPG) (40 CFR Part 247). The recommended minimum recovered materials content of EPA designated items is set forth in EPA's Recovered Materials Advisory Notices (RMANS) and in EO 12873 as amended. These publications are available from the DOJEE.

### **2823.404 Procedures.**

(a) The program office initiating the acquisition is responsible for determining if recovered materials should be included in the specification. Procurement offices are responsible for informing program offices of the requirement for writing specifications for designated items that include minimum content standards specified in the RMANS.

(b) If the program office chooses to procure designated items containing less than the minimum content standards, the program office must justify that decision in writing and include a copy of the signed justification with the procurement request package. [FAR 23.404\(b\)\(3\)](#) sets forth the only acceptable justifications for acquiring EPA designated items which do not meet the minimum content standard. The contracting officer is the approving official for justifications made pursuant to [FAR 23.404\(b\)\(3\)](#). Contracting officers are responsible for including a signed copy of the justification in the acquisition file and submitting a copy of the approved justification to the DOJEE.

### **2823.404-70 Affirmative Procurement Program for Recycled Materials.**

(a) Recovered materials preference program. Preference will be given to procuring and using products containing recovered materials rather than products made with virgin materials when adequate competition exists, and when price, performance and availability are equal.

(b) Promotion program. The DOJEE has primary responsibility for actively promoting the acquisition of products containing recycled materials throughout DOJ. Technical and procurement personnel will cooperate with the DOJEE to actively promote DOJ's Affirmative Procurement Program (APP).

(c) Procedures for vendor estimation, verification and certification.

(1) Estimation. The contractor shall provide estimates of the total percentage(s) of recovered materials for EPA designated items to be used in products or services provided.

(2) Certification. Contracting officers shall provide copies of all vendor and subcontractor certifications required by [FAR 23.405](#)(b) to the DOJEE.

(3) Verification. The DOJEE is responsible for periodically reviewing vendor certification documents and waivers as part of the annual review and monitoring process to determine if DOJ is in compliance with EO 12873 and subsequent amendments.