

**SUBCHAPTER D—SOCIOECONOMIC PROGRAMS**

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SUBCHAPTER G—SOCIOECONOMIC PROGRAMS

PART M823—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

**M823.002-70 VA Policy.**

(a) VA is committed to being a good steward of the environment by always thinking “green” at the start of the acquisition process (see [FAR part 7](#)/VAAR part 807--Acquisition Planning, [FAR part 8](#)/VAAR part 808--Required Sources of Supplies and Services, and [FAR part 10](#), VAAR part 810—Market Research). Green purchase requirements apply to—

(1) All Federal agencies and their contractors. Information on ENERGY STAR, energy efficient, water efficient and low standby products covered by this policy is available via the following internet sites:

- [Federal Energy Management Program](#);
- [Energy Saving Building and Manufacturing](#);
- [Energy Star](#); and,
- [WaterSense](#).

(2) Simplified acquisitions (see [FAR part 13](#)/VAAR part 813).

(3) Micro-purchases (see FAR part [2.101/13.101](#) and VAAR part 802/813).

(4) VA’s Governmentwide commercial purchase cardholders (see [FAR part 13.301](#)) and VA Financial Policy, (see [Volume XVI, Charge Card Programs](#)).

(5) Acquisition of Commercial Items (see [FAR part 12](#)/VAAR part 812).

(6) Large purchases (see [FAR part 16](#)/VAAR part 816; [FAR part 36](#)/VAAR part 836, Construction and Architect-Engineer Contracts and [FAR part 37](#)/VAAR part 837, Service Contracts).

(b) The Office of Acquisition and Logistics [Green Purchasing Program website](#) contains the following helpful and comprehensive green purchase policy and guidance: (1) Green Purchasing Home, (2) Environmental Performance and Sustainability Factors (Green Purchasing Program Components), (3) Greening the Acquisition Planning Process, (4) Green Purchasing Communications, and (5) Green Purchasing Resources, Tools, and Training.

(c) VA contracts for the operation of government-owned facilities or vehicles shall require the contractor to comply with the provisions in VA Directive and Handbook 0058, [VA Green Purchasing Program](#).

(d) Green products and services are widely available from required sources. Once the specifications, including specific requirements regarding environmental attributes are finalized, the contracting officer shall comply with the VA Vets-First Contracting Program before checking for availability from the required sources described in [FAR part 8/VAAR part 808--Required Sources of Supplies and Services](#).

(e) The “Green Procurement Compilation (GPC)” shall be used during market research to help determine federal sustainable acquisition (green purchasing) requirements relevant to the intended contract action. The GPC is a free, public website that identifies federal green purchasing requirements and provides other guidance for the procurement of sustainable products and services and effective development of green procurement strategies. Access the GPC [online](#).

### **Subpart M823-1—Sustainable Acquisition Policy**

#### **M823.103-70 Directives, handbooks, and other guidance.**

- (a) VA Directive 0055, [VA Energy and Water Management Program](#).
- (b) VA Directive and Handbook 0056, [VA Sustainable Buildings Program](#).
- (c) VA Directive 0057, [VA Environmental Management Program](#).
- (d) VA Directive and Handbook 0058, [VA Green Purchasing Program](#), which together comprise the VA Green Purchasing (Affirmative Procurement) Program.
- (e) VA Directive and Handbook 0059, [VA Chemicals Management and Pollution Prevention](#).

#### **M823.103-71 Procedures.**

(a) In accordance with VA Directive and Handbook 0058, [VA Green Purchasing Program](#) (GPP), the contracting officer shall purchase green products and services to the maximum extent practicable and advance sustainable acquisition by ensuring that 95 percent of new contract actions (including task and delivery orders) for the supply of products and for the acquisition of services (including construction) meet the requirements of the GPP.

Additionally, procurement offices will require vendors to provide an estimate of the total recycled content of their products and to certify that the recycled content will meet the minimum content standards on U. S. Environmental Protection Agency (EPA) [Comprehensive Procurement Guideline](#) (CPG) designated items.

Procurement offices will also require vendors to certify that biobased products (within [categories of products](#) listed by the U.S. Department of Agriculture (USDA) to

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be used or delivered in the performance of the contract comply with applicable specifications or other requirements in the VA contract.

(b) To assess government-wide compliance with the 95 percent sustainable acquisition goal, the Office of Management and Budget (OMB) directed all Federal agencies to review at least five percent of their total applicable contracts on a quarterly basis and to report on the progress as part of the semiannual OMB Sustainability/Energy Scorecard and annual agency Strategic Sustainability Performance Plan, and/or other OMB- or Council on Environmental Quality-mandated reports. Therefore—

(1) VA Administrations and appropriate staff offices shall conduct sustainable contract reviews in response to a data call from the Office of Asset Enterprise Management (OAEM/044).

(2) The Heads of the Contracting Activity (HCAs) shall—

(i) Track the results of applicable contracts reviewed within their purview to identify trends related to non-compliance and initiate corrective action;

(ii) Disseminate the information to members of the VA acquisition workforce and remind contracting officers and contracting specialists of their responsibilities with regard to green purchasing; and

(iii) Designate a primary and alternate “Green Purchasing Program Advocate (GPPA)” to represent their respective organizations. The primary and alternate GPPAs shall be contracting officers, contracting specialists, or other appropriate technical members of the acquisition workforce and shall serve as the organization’s points of contact for green purchasing implementation to the Office of Acquisition and Logistics, Procurement Policy and Warrant Management Service, and to OAEM, Energy Management Program Service.

(3) The contracting officer shall—

(i) Review all procurement requests to ascertain whether green products or services are or should be involved in the procurement action;

(ii) Provide guidance to program/project management functions (centralized or otherwise), procurement request originators, and others as required, and facilitate acquisition planning with respect to green products and services;

(iii) Ensure that all appropriate FAR provisions and clauses for green products and services are incorporated into contract actions and modifications including, but not limited to, solicitations, evaluations, and awards (where and as applicable), and that the statement of work (SOW) and all other pertinent contract sections contain appropriate green purchasing requirements languages;

(iv) Enter the appropriate information into the green purchasing data fields in the Federal Procurement Data System-Next Generation, the VA Electronic Contract Management System (eCMS), and other databases operated by procurement organizations;

(v) Incorporate, when evaluated, the contractor's final Sustainable Acquisition Plan, as discussed in VAAR 823.103-70—Policy, into the contract eCMS; and

(vi) Maintain all the required documents in the contract file (including recovered materials estimates, certifications, and written justifications for exemptions provided under law) and populate the eCMS briefcase with all applicable green requirements documentation (SOW/performance of work statement, certifications, etc.).

(4) The GPPA shall serve as a resource for their respective organization to—

(i) Ensure awareness of sustainable acquisition requirements;

(ii) Consult in the development of green contract requirements;

(iii) Share best practices;

(iv) Coordinate education/training and promotional activities;

(v) Identify and assist with recognition opportunities; and

(vi) Coordinate responses to reports and other data requests.

(c) VA contracts for operation of government-owned facilities or vehicles shall require the contractor to comply with the provisions of VA Directive 0058 with respect to such facilities or vehicles to the same extent as the Administration or staff office would be required to comply if the Administration or staff office operated the facilities or vehicles.

**M823.103-72 Contract file.**

When one is required, the contracting officer shall place the contractor's final Sustainable Acquisition Plan into the contract file in eCMS.

**Subpart M823.2—Energy and Water Efficiency and Renewable Energy**

**M823.202-70 VA Policy.**

- (a) VA Directive 0012, VA Investments in Energy and Water Efficiency and Renewable Energy.
- (b) VA Directive 0055, VA Energy and Water Management Program.
- (c) VA Directive and Handbook 0056, VA Sustainable Buildings Program.
- (d) [VA's Energy and Water Management Program Website](#).

**M823.204 Procurement exemptions.**

The HCA is the agency head's designee for the purpose of executing the written determination not to purchase ENERGY STAR® or Federal Energy Management Program-designated products in accordance with [FAR 23.204\(a\) or \(b\)](#).

**Subpart M823.4—Use of Recovered Materials and Biobased Products**

**M823.403 Policy.**

(a) Mandatory federal purchasing requirements for products with recovered (recycled) materials were established in the Resource Conservation and Recovery Act of 1976 (section 6002, Pub. L. 94-580, 42 U.S.C. 6962). Purchasing requirements for recycled content products are detailed throughout the FAR including acquisition planning, mandatory purchasing by purchase card, source selection, mandatory contract clauses, and general policy and provisions.

(b) Federal law, the FAR, and Presidential Executive Orders direct that federal agencies purchase products with the highest percent of recovered material content practicable designated by the EPA. EPA designates products under the Comprehensive Procurement Guidelines (CPG) program. To date, EPA has designated 61 CPG products in eight categories for which agencies and their contractors have mandatory purchasing requirements. EPA recommends recycled content levels for CPG products in Recovered Materials Advisory Notices.

(c) Mandatory federal purchasing requirements for biobased products were established in the Farm Security and Rural Investment Act of 2002 (2002 Farm Bill), 7

U.S.C. 8102, and expanded in the 2008 and 2014 Farm Bills. Biobased purchasing requirements are detailed throughout the FAR including acquisition planning, mandatory purchasing by purchase card, source selection, mandatory contract clauses, and general policy and provisions.

(d) Federal law, the FAR, and Presidential Executive Orders direct that federal agencies purchase products with the highest percent of biobased content practicable designated by the USDA. As USDA identifies product categories for mandatory federal purchasing, minimum biobased content is established for the category.

(e) Where a product appears on both the EPA CPG list and the USDA BioPreferred® list (e.g., paint) and/or the sustainable acquisition requirements cannot be met in the same product, remanufactured and recycled content should receive purchasing priority over biobased content.

#### **M823.404 Agency affirmative procurement program.**

[FAR 23.404\(a\)](#) requires agencies to establish an affirmative procurement program for EPA and USDA-designated items. Therefore, VA's affirmative procurement program is established by the requirements delineated in VA Directive and Handbook 0058, VA Green Purchasing Program, as part of the overarching VA Green Purchasing Program.

#### **M823.406 Solicitation provisions and contract clauses.**

(d) When [FAR clause 52.223-9](#), Estimate of Percentage of Recovered Material Content for EPA-Designated Items, is included in a contract, insert the term "Contracting Officer" in paragraph (b)(2), or in paragraph (c)(2) if the clause is used with Alternate 1.

### **Subpart M823.5—Drug-Free Workplace**

#### **M823.504-70 Policy.**

(a) VA Handbook 5383/4, VA Drug-Free Workplace Program, contains mandatory procedures on VA's Drug-Free Workplace Program.

(b) VA Handbook 5383/5, VA Drug-Free Workplace Program, contains revisions that implement new mandatory guidelines published by the Health and Human Services. The significant changes are—

- (1) Revised collection site procedures;
- (2) Modified procedures in Appendix II-B; and
- (3) Clarification to Appendix II-F, requires blind samples to be submitted using the same form used for donor specimen.

**Subpart M823-6—Notice of Radioactive Material**

**M823.600 VA's management of radioactive materials.**

(a) The provisions of VA Handbook 0059, VA Chemicals Management and Pollution Prevention, apply to all VA offices that purchase, store, handle, use, and dispose of hazardous chemicals/materials, but these provisions do not apply to the procurement, use, generation, storage, processing, disposal, or management of radioactive materials.

**Subpart M823.7—Contracting for Environmentally Preferable Products and Services**

**M823.703 Policy.**

(a) VA must procure environmentally preferable products through sources that offer advantages such as—

(1) Products that have been competitively bid (after complying with the Vets First acquisition program);

(2) Products that meet or exceed EPA minimum content requirements for recovered material;

(3) Products that meet or exceed USDA minimum content requirements for biobased content; and

(4) Electronic catalogs that identify green products.

(b) Additionally, these sources provide estimation, certification, and verification of EPA-designated items containing recovered materials and USDA-designated biobased products; thereby, reducing overhead costs to track and monitor vendor compliance. Established Government sources, such as the General Services Administration, Government Printing Office, AbilityOne, the Defense General Supply Center and UNICOR are competitive sources.

**Subpart M823.8—Ozone-Depleting Substances**

**M823.803 Policy.**

(a) The policy for the procurement of non-ozone depleting substances is established in section 612 of the amended Clean Air Act of 1990. The EPA's Significant New Alternative Policy (SNAP) is a program for evaluating alternatives to ozone-depleting substances and hydrofluorocarbons (HFCs). The program reviews alternatives to ozone depleting substances and HFCs and identifies acceptable use of alternatives, which do not present a substantially greater risk to public health and the environment than the substances they replace or than other available substitutes. SNAP provides lists of acceptable and unacceptable substitutes in the following industrial sectors: adhesives, coatings, and inks; aerosols; cleaning solvents; fire suppression and explosion protection; foam blowing agents; refrigeration and air conditioning; sterilants; and, tobacco expansion.

(b) The use of ozone-depleting compounds must be eliminated where alternatives, which have been identified by SNAP, are available and the air quality benefits of the alternative products are consistent with or equivalent to, the air quality benefits stated in the Montreal Protocol and Title VI of the Clean Air Act Amendments of 1990.

(1) No VA contract may include a specification or standard that requires the use of a class 1 ozone-depleting substance unless the inclusion of the specification or standard is specifically authorized at a level no lower than a member of the Senior Executive Service. This restriction is in addition to any imposed by the Clean Air Act and applies to all VA contracts, regardless of place of performance. Program Managers are responsible for identifying all ozone-depleting substances in their requirements packages and ensuring that the contracting officer receives the approved authorization as discussed above.

(2) Preference shall be provided to the purchase of non-ozone depleting substances, as identified in the SNAP program. VA shall specify and procure alternative products that reduce overall risks to human health and the environment. The use of safe alternatives to ozone depleting substances and HFCs, as deemed acceptable by the SNAP program, shall be maximized to the greatest extent possible.

**Subpart M823.9—Contractor Compliance with Environmental Management Systems.**

**M823.902 Policy.**

VA Handbook 0062, Environmental Compliance Management, outlines the procedures, processes, and other key elements necessary to facilitate VA's continual improvement of management performance with respect to environmental compliance and reporting. It also addresses environmental management systems (EMS); whereby, all VA facilities and appropriate organizations are required to be covered by an EMS. Each EMS shall

reflect the elements and framework found in ISO 14001 and be in accordance with VA Directive 0057, [Environmental Management Program](#), and VA Directive 0064, [Environmental Management Systems](#).

**Subpart M823.10—Federal Compliance with Right-To-Know Laws and Pollution Prevention Requirements**

**M823.1000-70 Strategies and Tools.**

(a) Finding Public Information on Chemicals—

EPA, along with other federal and international agencies, maintains the location of sites showing where to find information on: (1) whether and how chemicals are regulated, (2) what chemicals are in your community, and (3) what EPA and other agencies know about the health and environmental effects of specific chemicals.

(b) New Chemicals Program Policies—

EPA has established information sources on the [New Chemicals Program](#). The website offers information on how the pre-manufacture notice process works and other related programs.

(c) Existing Chemicals—

On this website, citizens, businesses and government regulators can find basic information on [Assessing and Managing Chemicals under TSCA](#), managing chemical risks, sources for finding public information on chemicals, collecting and assessing information on chemicals, and related EPA and international activities.

(d) National Waste Minimization Program—

EPA manages information on the [waste reduction](#), which focuses efforts on reducing 31 priority chemicals found in our Nation's products and waste by finding ways to eliminate or substantially reduce their use in production.

(e) Federal Green Challenge (FGC)—

The [EPA FGC website](#) contains information on how to conserve natural resources and energy by managing materials more sustainably. It also identifies the following national priorities or focus areas for the FGC: Electronics, energy, purchasing, transportation, waste, and water.

(f) Pollution Prevention—

The [EPA Pollution Prevention website](#) contains tools and information on chemical and chemical processes, environmentally preferable products, resource conservation, publications, outreach material, and all EPA databases and software.