

## **Part I: Best Practices for Reviewing Contract Actions for Compliance with Green Products Requirements**

This document provides best practices for meeting the OMB scorecard action item to review at least five percent of applicable contract actions for compliance with the statutory and executive order green purchasing requirements. It was developed in consultation with and as recommended by the interagency Sustainable Acquisition and Materials Management Practices Workgroup (SAMM) to assist agencies with meeting the OMB scorecard action item. It consists of two parts: Part I identifies best practices and Part II are questions and answers pertaining to the contract actions reviews.

### How are Contract Actions Selected for Review?

- The scope of contract actions selected for review includes purchases of products and purchases of services under which green products could be supplied or used. The Q&A in Part II provides additional guidance on contract actions and references the types of services contracts that should be reviewed.
- Agencies may select specific types of contracts on which to focus their reviews (e.g., review construction contracts for all relevant green products and/or all service contracts that include preference for biobased or another green product). However, a mix of contract types and contract actions along with varied agency locations is preferred.
- Note: Per OMB direction, contracts solely for the purchase of EPEAT-registered products may be included in the pool of contract actions to be reviewed *only if the contract is new*. Contract actions against an existing contract vehicle for purchase solely of EPEAT-registered products should not be included in the pool of contract actions to be reviewed.
- Agencies may set an appropriate dollar threshold for contract actions to be reviewed.
- In general, agencies download Federal Procurement Data System data on their contract solicitations and awards for the quarter(s) to be reviewed. Contract data from internal contract writing systems that are the source for FPDS data, information, or other management systems can also be used. For solicitations, FedBizOpps can be a source of information.
- Agencies then scrub the list of contract actions to exclude specific types. Examples of the types of contacts agencies typically exclude are as follows:
  - Medication and medical services
  - Space flight hardware
  - Academic services
  - Support of overseas operations
  - Computer programming services
  - R&D
  - Program assessments
  - Consulting services
  - Training
  - Leases

- Scrubbing can be done at the headquarters level, by operating organizations, or by regional offices.
- Some agencies also exclude contract types in which the inclusion of green product requirements has been standardized, such as janitorial contracts or EPEAT-registered electronics.
- Agencies can develop lists of NAICs or Product and Service Codes (PSCs) that will be excluded and limit future FPDS data runs by excluding those NAICs or PSCs from the scope of the run.
- The type of contract actions to be reviewed varies with each agency and its size. In general, agencies excluded purchase card purchases. Agencies can include contract modifications, task orders, and delivery orders, although at least one agency excludes them. If an agency chooses to exclude them, then it must review the base contract.

### Who Reviews the Contract Actions?

- Contract actions can be reviewed either at the headquarters level, by operating entities, or by regional offices.
- The OMB scorecard assessments are conducted on a roll up of the more in-depth contract reviews and monitoring that agencies perform regularly, such as quality assurance, FPDS reports, or program management reviews.

### What is Reviewed?

- The contract action content that is reviewed varies by agency. Some agencies review the entire contract action, some review the clauses, and others ask their regional offices or operating entities to indicate whether green product requirements have been included in the contract action.
- It is generally agreed that review of the FAR clauses alone is not sufficient.
- Additional information about a contract action, such as the solicitation or contract language, can be found in FedBizOpps or agency contract writing systems or contract records.
- If a contract action should have required several types of green products, but only included a requirement for one type (e.g., Energy Star), agencies considered the contract action to be compliant. In the future, contract actions must require all applicable types of green products to be considered compliant.
- At this time, most agencies did not verify, as part of their contract action reviews, that green products had been delivered. *This is an essential component of ongoing compliance reviews and will be emphasized by the OMB Scorecard in FY12 and beyond.*

### Identifying Corrective Actions

- At least one agency requested corrective action plans from its operating entities.
- One agency suggested that its regional offices modify existing contracts to add FAR clauses that should have been included but were not.