

SUBJECT: SUSTAINABLE ACQUISITION POLICY

1. PURPOSE. This Order conveys policy, delegates authority, and assigns responsibility to ensure that the United States Department of Transportation (DOT or Department) and its Operating Administrations meet all requirements related to sustainable acquisition. Federal agencies are required to purchase sustainable products and services, pursuant to the Clean Air Act of 1963 (CAA), as amended; the Energy Policy Act of 2005; the Farm Security and Rural Investment Act of 2002; the Resource Conservation and Recovery Act of 1976; Executive Order (EO) 13834, *Efficient Federal Operations*; the Federal Acquisition Regulation (FAR); the Transportation Acquisition Regulation (TAR); the Federal Aviation Administration (FAA) Acquisition Management System (AMS); and other applicable requirements set forth in law, regulations, or executive actions. With this Order, the Department will leverage its buying power to improve resource use efficiency and reduce costs to the government for goods and services.
2. CANCELLATION AND EFFECTIVE DATE. This Order cancels DOT Order 4357, *Sustainable Acquisition Policy*, issued November 12, 2013. This Order is effective upon issuance.
3. APPLICABILITY. This Order applies to all DOT employees and contractors involved with the purchase or lease of products, materials, or services and to all DOT contracts, unless excluded by the FAR, TAR or the FAA AMS, as defined below.
 - a. For the purpose of this Order, Operating Administration (OA) refers to the nine DOT OAs, plus the Office of the Secretary, Office of the Assistant Secretary for Research and Technology, and the Office of Inspector General.
 - b. OA Administrators are accountable for ensuring that all contract actions and purchases comply with the requirements of this Order, where applicable to the product or service.
 - c. This Order synthesizes sustainable acquisition requirements, directives, and best practices, and does not alter or revise obligations agencies may have with respect to any statutory, regulatory, or other requirements. OAs must comply with all relevant laws, regulations, executive actions, and other directives, including those set forth in Appendix I of this Order, along with any legal requirements not cited herein, or established after issuance. This Order shall not be construed to preclude the provision of reasonable accommodations to qualified employees, as needed.

- d. In the event of a conflict between this policy and the FAR, TAR, or FAA AMS, the appropriate regulation shall prevail.
 - e. The requirements of this Order are not intended to restrict or inhibit DOT's ability to fulfill its mission or adversely affect in a material way the Department's operations or the safety of the traveling public.
 - f. This Order is intended solely to improve the internal management of the Department. It is not intended to and does not create any right or benefit, substantive or procedural, enforceable by any party against the United States, the Department, or its entities, officers, employees, or agents, or any other person.
 - g. For the actions contained in this Order, "must" conveys statutory or regulatory requirements, and "should" or "may" convey recommendations for efficient and effective implementation.
4. AUTHORITIES AND REFERENCES. See Appendix I for a list of authorities and guidance documents.
5. DEFINITIONS. See Appendix II for a list of key terms.
6. POLICY. It is the policy of the Department to meet all sustainable acquisition requirements in a manner that increases efficiency, optimizes performance, eliminates unnecessary use of resources, and protects the environment.
- a. DOT's purchase of goods and services are primarily governed by the following (hereinafter referred to in this Order as the "DOT Acquisition Documents"):
 - 1) The Federal Acquisition Regulation (FAR) – A set of regulations governing the Federal government's purchasing process. The FAR ensures purchasing procedures are standard and consistent, and conducted in a fair and impartial manner. Relevant sustainable acquisition requirements are in FAR Part 23, but FAR Parts 2, 4, 7, 8, 10, 11, 12, 36, 39, 42, and 52 may also apply. The FAR does not apply to FAA.
 - 2) The Department of Transportation Acquisition Regulation (TAR) – Contains DOT policy and procedures that implement and supplement the FAR, and may impact contractors and potential offerors. The TAR does not apply to FAA.
 - 3) The Department of Transportation Acquisition Manual (TAM) – Contains DOT internal policy, procedures, and instructional guidance that implements and supplements the FAR and TAR. The TAM does not apply to FAA.

- 4) The FAA Acquisition Management System (AMS) – 49 United States Code (U.S.C.) § 40110(d) establishes an acquisition life cycle management system for FAA, including contracting and program management systems. FAA follows the AMS, rather than the FAR.
- b. Additional laws, EOs, and other directives and guidance may also affect DOT’s purchase of goods and services.
- c. The Department will implement a comprehensive strategy to ensure that contract actions comply with statutory and regulatory sustainability requirements in the following areas:
 - 1) Overarching Sustainable Acquisition Procedures;
 - 2) Biobased Content (7 U.S.C. § 8102);
 - 3) Recovered Materials (42 U.S.C. § 6962);
 - 4) Energy Efficient Products (42 U.S.C. § 8259b); and
 - 5) Alternatives to Ozone-Depleting Substances and Toxic and Hazardous Materials (42 U.S.C. § 7671k, 42 U.S.C. § 6902(b), 42 U.S.C. § 13101(b)).
- d. Sections 8 – 13 of this Order set forth specific requirements and suggested procedures to ensure that requirements for DOT contract actions comply with relevant statutory requirements and support DOT sustainability goals. Exclusions for specific requirements are described in each Section.
- e. Pursuant to 7 U.S.C. § 8102 and 42 U.S.C. § 6962, the OST Office of the Senior Procurement Executive (OSPE) must develop and maintain an affirmative procurement program to support biobased and recovered materials acquisition requirements. FAA must develop and maintain a separate affirmative procurement program that follows AMS guidance.
- f. Following the U.S. Office of Management and Budget (OMB) Memorandum M-19-13 and Section III(C)(1) of the EO 13834 Implementing Instructions, the Department will prioritize the use of category management (CM) solutions, including best-in-class (BIC) and other government-wide acquisition vehicles to meet applicable sustainability requirements and increase “Spend Under Management” (SUM).
 - 1) The Contracting Officer (CO), in collaboration with the COR/PR initiator, will ensure compliance with applicable sustainability requirements for each DOT contract action, and add relevant FAR clauses at the order level that are not already incorporated in the applicable BIC master contract.

- g. In accordance with Section III(C)(1) of the EO 13834 Implementing Instructions, the Contracting Officer's Representative (COR) and the Procurement Request (PR) Initiator or Program Manager, shall prioritize the initiation of contract actions that meet more than one of the applicable sustainable acquisition requirements.
 - 1) The COR/PR Initiator/Program Manager must justify and submit to the CO prior to award the rationale for decisions to not procure a sustainable alternative in accordance with the requirements of Federal sustainable acquisition preference programs.
 - 2) The CO must report the justification to OSPE.
- h. The Department will track and report compliance with statutory requirements for procurement of environmentally preferable products and services using the Federal Procurement Data System-Next Generation (FPDS-NG).
 - 1) OAs may use alternate methods to report verified data for procurements not captured in FPDS-NG, such as purchases under the micropurchase threshold.
 - 2) Section 13 of this Order sets forth FPDS-NG reporting requirements, and additional details are provided in Appendix IV of this Order.
- i. Appendix I of this Order lists guidance and resources pertinent to sustainable acquisition, biobased content, recovered materials, energy efficient products, and alternatives to ozone-depleting substances and toxic and hazardous materials.
- j. The Sustainability Governance and Engagement directives described in the Overarching Sustainability Policy are intended to facilitate and support OA actions to implement the requirements in this Order.
- k. OAs should also follow requirements related to this Order found in DOT's current Pollution Prevention and Waste Management, Sustainable Buildings, and Electronics Stewardship Policies, or any subsequent updates that supersede them.

7. RESPONSIBILITIES. The following personnel are responsible for implementing this Order.

- a. **DOT Chief Sustainability Officer (CSO):** The Secretary of Transportation has delegated to the Assistant Secretary of Administration the duties of the CSO pursuant to 49 Code of Federal Regulations (CFR) § 1.38(c)(2). The CSO serves as the senior official responsible for the day-to-day management, implementation, performance, and compliance with all applicable energy, environmental, and sustainability statutes, regulations, executive actions, and other requirements. Specific responsibilities of the CSO related to this Order include:
 - 1) Representing DOT on sustainability matters with officials from the Federal Executive Branch, Congress, and all other external stakeholders;
 - 2) Communicating all energy, environmental, and sustainability requirements to the OAs and report to the Secretary and Deputy Secretary of Transportation on the adequacy and effectiveness of DOT's implementation;
 - 3) Coordinating with all appropriate Secretarial Offices and OAs to implement this Order;
 - 4) Reviewing and approving all sustainability-related reports submitted to oversight agencies, such as the Department of Energy (DOE), OMB, and the Council on Environmental Quality (CEQ), on behalf of the Secretary; and
 - 5) Entering into partnerships with other Federal agencies, on behalf of DOT, to advance sustainability performance.
- b. **DOT Assistant Secretary for Administration:** Provides Departmental leadership and develops DOT policy on issues related to human resources, security, acquisition and grants, information services, energy, environmental management and sustainability, transportation, facilities, and space management.
- c. **DOT Assistant Secretary for Budget and Programs/Chief Financial Officer (CFO):** Serves as the principal advisor to the Secretary of Transportation on the development, review, and presentation of the Department's budget resource requirements and allocations. The CFO provides oversight of the Department's program performance and is responsible for all aspects of financial management.
- d. **DOT Office of the Senior Procurement Executive (OSPE):** Facilitates the accomplishment of DOT's mission by providing effective, ethical, sustainable, state of the art business policies, practices, and services in acquisition, financial assistance management, and competitive sourcing. Specific responsibilities related to this Order include:

- 1) Communicating sustainable acquisition requirements, including changes to the TAR, TAM, and other Departmental guidance;
 - 2) Issuing policy to ensure all subject contracts meet sustainable acquisition requirements;
 - 3) Performing procurement and acquisition oversight responsibilities, including Procurement Management Reviews (PMRs) of the OA contracting offices and lead Acquisition Strategy Review Boards, to ensure contract awards meet both Federal and Departmental acquisition requirements;
 - 4) Providing guidance for reporting data in FPDS-NG related to sustainable acquisition, as needed;
 - 5) Coordinating with the FAA AMS Acquisition Executive, as appropriate on Sustainable Acquisition requirements and policies;
 - 6) Setting targets and identifies strategies to meet goals for sustainable acquisition requirements through the affirmative procurement program and oversees implementation of these strategies;
 - 7) Ensuring that members of the contracting workforce complete the required training for their appropriate Federal Acquisition Certification level in Contracting through current Federal or Departmental online learning platforms, to include Sustainable Acquisition;
 - 8) Tracking and reporting purchases and contract actions related to sustainable acquisition, consistent with available reporting system capability, including in FPDS-NG;
 - 9) Issuing FAR deviations as needed to comply with the sustainable acquisition requirements; and
 - 10) Evaluating and implementing contract writing systems (e.g. Enterprise Service Center (ESC) Procurement Information Management, Procurement Request Information System (PRISM)) to improve standardization of sustainable acquisition clauses in contract documents to the maximum extent possible.
- e. **DOT Office of the General Counsel (OGC):** Interprets and provides guidance on new and existing environmental and sustainability statutes, regulations, executive actions, and other requirements. Reviews certain contracts to ensure they meet all applicable statutes, regulations, EOs, and other legal requirements¹ for OST, or other OAs as requested.
- f. **DOT Office of the Secretary of Transportation (OST); Office of Facilities, Information, and Asset Management; Energy and Resource Efficiency Program (EREP):** Specific responsibilities related to this Order include:

¹ For FAA, the review of contracts to ensure they meet all applicable statutes, regulations, EOs, and other requirements will be performed by the FAA Office of the Chief Counsel.

- 1) Developing energy, environmental, and sustainability policies to improve efficiency, enhance resilience, and reduce costs for DOT facilities;
 - 2) Providing strategy development, oversight, evaluation, methodology, and assistance for implementation of energy and sustainability policy;
 - 3) Assisting the CSO in communicating all energy, environmental, and sustainability requirements to the OAs and the relevant OST offices; and
 - 4) Aggregating and assembling data for DOT-wide internal and external sustainability reports.
- g. **OA Administrator:** Ensures OAs comply with and implement all applicable requirements for sustainable acquisition set forth in this Order. The OA Administrator may delegate responsibilities as necessary to meet the requirements. Specific responsibilities related to this Order include:
- 1) Issuing data collection requests and analyze data for reporting progress milestones;
 - 2) Incorporating sustainability goals into performance plans and appraisals;
 - 3) Ensuring employees with sustainability and/or facility responsibilities receive appropriate training;
 - 4) Communicating new requirements throughout the OA;
 - 5) Ensuring that contract information is tracked and reported to the appropriate reporting systems at the minimum intervals;
 - 6) Submitting requests, if appropriate, for exemptions to the sustainable acquisition requirements to the CSO;
 - 7) Ensuring the OA Chief Acquisition Officer and the Chief of the Contracting Office carry out sustainable acquisition policies and programs, including affirmative procurement programs, in a manner that meets or exceeds the requirements of all relevant laws, regulations, and EOs;
 - 8) Ensuring the COR/PR initiators carry out sustainable acquisition responsibilities as described in this Order and DOT acquisition documents; and
 - 9) Ensuring that OAs evaluate performance contracts for building renovations and upgrades, and pursue such contracts when they provide the most appropriate financing mechanism.
- h. **OA Chief Acquisition Officer or FAA Acquisition Executive:** Awards and administers contracts and ensures compliance with DOT Acquisition Documents and procedures related to acquisition. In conjunction with key stakeholders, ensures that all applicable contracts and acquisition tools meet the requirements of this Order.² The Senior Procurement Official may delegate responsibilities to meet the requirements. Specific responsibilities related to this Order include:

² To the extent the policy herein is consistent with 49 U.S.C. § 106(f)(2)(D).

- 1) Procuring products and services that comply with this Order;
- 2) Ensuring COs enter purchase information into FPDS-NG as required, including attributes required to track sustainable procurement for reporting requirements;
- 3) Issuing procurement policy and guidance in support of sustainable acquisition requirements and share best practices;
- 4) Ensuring that relevant DOT contract actions including procurements with BIC and government wide contracts include required sustainability clauses;
- 5) Assessing procurement data (contracts) at least annually to track performance, meet targets, and implement corrective actions as needed;
- 6) Reviewing and analyzing sustainable acquisition indicators including the preparation of any required internal and external reports;
- 7) Developing and implementing corrective action plans for OA as needed;
- 8) Ensuring sustainable acquisition awareness activities occur;
- 9) Consulting with technical experts (program/project managers) to select the product or service that meets all applicable standards or otherwise minimizes overall environmental impact when multiple environmental standards apply to a product or service;
- 10) Considering whether there are any sustainable acquisition products that might be more accessible for persons with disabilities; and
- 11) Ensuring that contractors comply with all environmental-related performance requirements.

i. Contracting Officer's Representative (COR)/Procurement Request (PR) Initiator:

Specific responsibilities related to this Order include:

- 1) Consulting early in the procurement process with appropriate stakeholders and technical staff (e.g., environmental specialists, contracts specialists, facility managers) to facilitate the process of procurement planning;
- 2) Developing specifications and performance requirements that meet all relevant requirements set forth in law, regulations, or executive actions for green products and services;
- 3) Developing statements of work (SOWs) to promote the reuse of products, and acquisition of products and services that meet the Department's sustainable acquisition requirements, and administer contracts to ensure that contractors are meeting the requirements of each SOW;
- 4) Preparing Request for Waiver or justification documentation where appropriate;
- 5) Defining all applicable environmental and energy conservation objectives associated with the acquisition, including operations and maintenance and end-of-life considerations;

- 6) Identifying product and service areas where a significant positive environmental impact can be achieved through acquisition of sustainable products or services;
- 7) Reviewing new and upcoming contract actions to ensure sustainable requirements are met; and
- 8) Completing sustainable acquisition training offered through the Federal Acquisition Institute and DOT's training platforms.

j. Purchase Card Holder: Specific responsibilities related to this Order include:

- 1) Completing sustainable acquisition training via TAM-prescribed training for cardholders; and
- 2) Procuring products and services that comply with the policies outlined in the DOT Acquisition Documents.

8. OVERARCHING SUSTAINABLE ACQUISITION PROCEDURES. Procurement of environmentally preferable products and services can advance environmental and energy performance goals, while reducing costs. In addition, the use of CM and government-wide acquisition vehicles to meet sustainability goals will increase administrative efficiency and better leverage buying power. Section 6 of this Order provides an overview of policy requirements and Sections 9 – 13 of this Order cover the requirements for individual topics in more detail.

- a. OAs must acquire products and services in accordance with statutory mandates for purchasing preference, the AMS for FAA and the FAR for all other OAs, and other applicable Federal procurement policies.
- b. In accordance with Section III(C)(1) of EO 13834 Implementing Instructions, OAs must increase the percentage of contract actions and the percentage of obligations (in dollars) containing statutory environmental requirements, as compared to the prior fiscal year.
 - 1) To inform Departmental targets, OAs must identify sustainable acquisition targets for the next fiscal year, and in accordance with 7 U.S.C. § 8102, identify targets for the number of biobased-only contracts awarded. OAs should use procurement data from FPDS-NG to identify targets.
 - 2) DOT must report sustainable and biobased acquisition targets for the next fiscal year in the annual Sustainability Report and Implementation Plan.
- c. In accordance with Section III(C)(1) of EO 13834 Implementing Instructions and TAM Chapter 1207, OAs must use CM solutions and prioritize BIC options to the maximum extent practicable, to help meet sustainability goals and better leverage the governments buying power.

- 1) OAs should use the General Services Administration (GSA) Acquisition Gateway to access CM resources. The CM initiative includes ten categories for common goods and services, and identifies BIC solutions that meet all applicable acquisition requirements.
 - 2) CM solutions and BIC options are intended to incorporate sustainability requirements, and should facilitate compliance with relevant laws, regulations, and executive actions. However, COs must verify that all applicable sustainability requirements are met for each order placed against a CM or BIC contract vehicle action.
- d. OAs should use the following resources to identify products and services that meet applicable sustainable acquisition requirements or support sustainability goals:
- 1) The GSA Green Procurement Compilation (GPC) provides lists of products and services that meet statutory mandates, along with resources such as:
 - (a) Purchasing preference mandates for recovered materials, United States Department of Agriculture (USDA) bio-based or bio-preferred products and Environmental Protection Agency (EPA) ENERGY STAR®-labeled or DOE Federal Energy Management Program (FEMP)-designated energy efficient products, and products or services that meet all applicable requirements;
 - (b) EPA programs and labels (see Section 8(d)(2) and Appendix III of this Order);
 - (c) Government-wide contract vehicle options including GSA multiple award schedules, Federal Strategic Sourcing Initiative solutions, and GSA Global Supply, along with sample solicitation language;
 - (d) Basic life cycle cost-savings information for many energy-consuming products, to help determine if one product is environmentally preferable to another; and
 - (e) Optional environmental programs and additional procurement guidance to support sustainability goals.
 - 2) Products and services identified by EPA programs or labels, including:
 - (a) Recommendations of Specifications, Standards, and Ecolabels to help Federal purchasers efficiently and effectively identify and procure environmentally sustainable products and services, and comply with the FAR. The recommendations currently cover 22 key Federal purchase categories and include over 40 private sector standards/ecolabels that meet EPA guidelines for use in Federal procurement;
 - (b) WaterSense certified products and services;
 - (c) Safer Choice-labeled products; and

- (d) Significant New Alternatives Policy (SNAP) chemicals or other alternatives to ozone-depleting substances.
- e. COR/PR Initiators are responsible for ensuring that sustainability programs are adequately represented in SOW requirements for each PR, and COs must ensure that all applicable FAR or AMS clauses are incorporated appropriately into all contracts prior to award.
- f. In accordance with the FMR at 41 CFR § 102-36, Disposition of Excess Personal Property, before initiating a PR, OAs should, to the maximum extent possible, fill requirements for personal property by using existing agency property or by obtaining excess property from other Federal agencies in lieu of new procurements.
 - 1) OAs should also follow requirements related to end of life asset disposal that are found in DOT's Pollution Prevention and Waste Management Policy.
- g. OAs must ensure that all relevant contract actions for procurement of environmentally preferable products and services and the requirements in Sections 9 – 12 of this Order are correctly reported in FPDS-NG, as described in Section 13 and in Appendix IV of this Order. OAs may use alternative systems for procurements that are not tracked in FPDS-NG, such as purchases under the micropurchase threshold.
 - 1) COs must select the correct elements related to sustainable acquisition in FPDS-NG to ensure the contracts are correctly counted towards the sustainable acquisitions metrics.
 - 2) FPDS-NG data will be used to report sustainable acquisition metrics on DOT's OMB Scorecard for Efficient Federal Operations/Management and in the annual DOT Sustainability Report and Implementation Plan.
- h. To support other sustainability goals, OAs should:
 - 1) Purchase water-efficient products and services for new contract actions where such products and services meet performance requirements, pursuant to EO 13834.
 - 2) Pursue opportunities with vendors and contractors to incorporate greenhouse gas emissions reduction methods in OA contracts.
 - 3) Review the GSA inventory of Federal facilities and indicate the reasons to acquire new space instead of using existing Federal space prior to acquiring new facilities, in accordance with OMB Circular No. A-11; and
 - 4) Follow additional requirements related to new construction, major renovations, and building operations found in the DOT Sustainable Buildings Policy.

- i. For all personnel involved in processes to acquire goods and services subject to sustainable acquisition laws, regulations, and executive actions, OAs should require appropriate training opportunities.
 - 1) In accordance with the Federal Buildings Personnel Training Act of 2010, personnel purchasing goods and services in order to perform functions related to building operations and maintenance, energy management, sustainability, water efficiency, safety, building performance measures and design functions must be able to demonstrate competency on relevant sustainable acquisition requirements.
 - 2) Training resources include the DOT Green Procurement Program module in the DOT Learns system. Relevant topics include:
 - (a) Use of CM and government-wide acquisition vehicles to meet sustainable acquisition requirements;
 - (b) Mandates for purchasing preference including recovered material, bio-based or bio-preferred products, ENERGY STAR®-labeled or FEMP-designated energy efficient products, and SNAP products; and
 - (c) Instruction on how to report sustainability metrics in FPDS-NG.
- 9. BIOBASED PRODUCTS. Use of biobased products reduces our nation's reliance on petroleum, spurs economic development and job growth based on renewable agricultural resources, and reduces adverse environmental and health impacts.
 - a. The requirements of this Section apply to all of the USDA designated biobased product categories, listed on the [USDA BioPreferred website](#). OAs should refer to the website for minimum biobased content requirements when preparing PRs for initiation.
 - b. Pursuant to 7 U.S.C. § 8102, OAs must procure biobased products and services for all applicable and practical contract actions involving categories of biobased products designated by USDA in 7 CFR Part 3201, except where:
 - 1) The guidelines in 7 CFR Part 3201 conflict with 40 CFR Part 247; or
 - 2) Biobased items do not have a reasonable cost or reliable or timely availability, or do not meet performance standards.
 - c. As described in Section 8(b)(1) of this Order, OAs must establish an annual target for biobased-only contracts.
 - 1) OAs should ensure that, to the maximum extent practicable, all standardized product or service specifications require the use of sustainable materials, including biobased products.

- 2) OAs must identify new contract actions that include biobased products, ensure the appropriate clauses are included in the contract, and report them in FPDS-NG.
- 3) In accordance with FAR clause 52.223-2 and AMS Clause, 3.6.3-19 for FAA, Affirmative Procurement of Biobased Products Under Service and Construction Contracts, services and construction contractors must report their purchases of biobased products to the CO and in the System for Award Management (SAM), as described in Section 13 of this Order.

10. RECOVERED MATERIALS. Procuring products made with recovered materials reduces environmental impacts by ensuring that the materials collected in recycling programs will be used again in the manufacture of new products.

- a. Pursuant to 42 U.S.C. § 6962(c), OAs must procure products with recovered materials for all contract actions involving items designated by EPA in the Comprehensive Procurement Guidelines (CPG) at 40 CFR Part 247.
 - 1) When procuring any items designated in the CPG, OAs must:
 - (a) Procure items composed of the highest percentage of recovered materials practicable; and
 - (b) Procure paper with the highest percentage of postconsumer recovered materials practicable.
 - 2) Exceptions to this requirement include cases where items do not have a reasonable cost or reliable or timely availability, or do not meet performance standards (e.g. accessibility requirements).
 - 3) COs must require that vendors use at least the minimum amount of recovered materials required by the contract SOW prepared by the PR Initiator, and report an estimate of the total percentage of recovered materials used for the performance of the contract.
- b. Contractors should submit acquisition-related documents electronically, to the maximum extent possible, and print double-sided on paper containing recovered materials when applicable.
- c. OAs must report new contract actions that include the appropriate recovered materials clauses in FPDS-NG.

11. ENERGY EFFICIENT PRODUCTS. Energy efficient products can reduce life cycle costs while minimizing environmental impacts.

- a. OAs must procure ENERGY STAR®-labeled or FEMP-designated products, pursuant to 42 U.S.C. § 8259b, except where:
 - 1) No ENERGY STAR®-labeled or FEMP-designated products are reasonably available; or;
 - 2) The product is not life cycle cost-effective, taking energy cost savings into account.
- b. Pursuant to 10 CFR § 436, subpart C, OAs should require the procurement of ENERGY STAR®-labeled and FEMP-designated products in new service contracts and other existing service contracts as they are re-competed.
- c. Pursuant to 42 U.S.C. § 8259b(e), when procuring commercially available off-the-shelf devices that use standby power, OAs must include in their SOWs or specifications when purchasing such products a requirement that it use no more than one watt, or the lowest wattage available in their standby mode, when life cycle cost-effective and practicable and when the utility and performance of the eligible product is not compromised by the lower wattage requirement. DOE maintains a Low Standby Power Products [Website](#) with guidance on how to comply with this requirement.
- d. In accordance with 48 CFR § 23.704, OAs must purchase Electronic Product Environmental Assessment Tool (EPEAT®)-registered electronic products, unless they do not meet performance requirements or will not be life cycle cost-effective. FAA must follow the AMS requirements for the purchase of EPEAT®-registered electronic products.
- e. In accordance with OMB Memorandum M-16-02, OAs must purchase computer workstations through designated BIC acquisition vehicles that meet the government-wide strategic solution requirements. All BIC solutions are available in the GSA Acquisition Gateway, and are compliant with EPEAT® and ENERGY STAR® requirements. Refer to the DOT Electronics Stewardship Policy for more information.
 - 1) If no ENERGY STAR®-labeled, FEMP-designated, or EPEAT®-registered product is available that meets performance requirements, OAs must select the most energy efficient product available. FAA must follow the AMS requirements for the purchase of EPEAT®-registered electronic products.
 - 2) OAs must ensure that all energy efficient contract actions have the appropriate clauses and they are reported in FPDS-NG.

12. ALTERNATIVES TO OZONE-DEPLETING SUBSTANCES AND TOXIC AND HAZARDOUS MATERIALS. Procurement can mitigate threats to human health and the

environment by ensuring minimal use and careful management of ozone-depleting substances and toxic and hazardous materials.

- a. Pursuant to 42 U.S.C. § 6902(b) and 42 U.S.C. § 13101(b), OAs must use acquisition planning to minimize the quantity of toxic and hazardous materials the Department acquires, uses, and disposes of.
- b. As described in the FAR at 48 CFR § 23.8, OA procurements must:
 - 1) Comply with the requirements of title VI of the CAA, Section 706 of Division D, title VII of Public Law 111-8, and 40 CFR §§ 82.84(a)(2), (3), (4), and (5);
 - 2) Substitute acceptable alternatives to ozone-depleting substances, as identified under 42 U.S.C. § 7671k, to the maximum extent practicable, as provided in 40 CFR 82.84(a)(1), except in the case of Class I substances being used for specified essential uses, as identified under 40 CFR § 82.4(n); and Use EPAs SNAP Program to identify potential alternative products.
- c. If a contractor is performing work on a Federal facility, they must provide information necessary for the Federal agency to comply with the emergency planning and toxic release reporting requirements in the Emergency Planning and Community Right-to-Know Act of 1986 and Pollution Prevention Act of 1990, as outlined in the FAR at 48 CFR § 23.1004.
- d. OAs must require the use of hazardous Material Safety Data Sheets (MSDS) for any material identified in Federal Standard Number 313 and for any other material designated by a government technical representative as potentially hazardous and requiring safety controls, as described in the FAR at 48 CFR § 23.302.
 - 1) Contractors must submit MSDS prior to contract award, if applicable, and again with the supplies at the time of delivery.
 - 2) The CO must provide a copy of all MSDS to the safety officer or other designated individual.
- e. OAs must identify new contract actions that include language regarding non-ozone depleting or SNAP products in the SOW, have the appropriate clauses in the contract, and are reported in FPDS-NG (or equivalent documentation).
- f. OAs should conduct an alternatives analysis prior to procuring products that contain hazardous or toxic materials. If an alternative is found, OAs should prioritize its use over more toxic and/or hazardous materials.

- g. OAs should develop written goals and support actions to identify and reduce the release of toxic and hazardous materials.

13. SUMMARY OF REPORTING REQUIREMENTS. OAs must use the monitoring and documentation systems listed in the table below to meet the requirements of this Order. These systems are generally web-based and proprietary to the Federal government.

Reporting Module	Purpose	Data Attributes to Report	Reporting Frequency
Federal Procurement Data System – Next Generation (FPDS-NG) (https://www.fpds.gov/)	Report number of contracts and contract value to track government spending across all categories. Required for all contracts/orders over the micro-purchase threshold and all modifications to the contracts/orders.	Total number of contracts and value of each that include required sustainability clauses (must check relevant boxes), including: <ul style="list-style-type: none"> • EPA-designated products • Recovered Materials and Sustainability • Biobased • Energy-efficient • Environmentally Preferable (including water efficient, SNAP, non-ozone depleting) 	Ongoing, as contract actions are entered into FPDS-NG
OMB Scorecard for Efficient Federal Operations/ Management	Report Departmental progress on sustainability requirements	Percent of all applicable contracts with reported sustainability clauses in FPDS-NG	Annually, by date specified by OMB. Data derived from FPDS-NG
System for Award Management (beta.SAM.gov)	Determine the value and use of biobased products purchased by DOT contractors	Contractors with relevant clause(s) included in their contracts must report purchases of biobased products	Annually, but no later October 31 for the previous fiscal year

14. POLICY UPDATES AND/OR REVISIONS. This Order must be reviewed to determine whether updates or revisions are necessary at least once every three years. In the interim, all applicable laws revised by Congress and all new executive actions or guidance related to sustainable acquisitions are considered incorporated by reference.
15. POLICY EXCEPTION REQUIREMENTS. OA Administrators may submit a request for an exception to the CSO, through EREP. Approvals for exceptions to the requirements of this Order should be coordinated with DOT's Office of the General Counsel.
16. DISTRIBUTION. This Order is distributed to all OST offices listed in Section 7 of this Order, OA Administrators, OA Chief Acquisition Officers, and the FAA Acquisition Executive.
17. CONTACT. If you have specific questions related to this Order, please contact EREP (M-90) at DOTsustains@dot.gov.

Keith Washington
Deputy Assistant Secretary for Administration,
Chief Sustainability Officer

APPENDIX I: AUTHORITIES AND REFERENCES

1. Public Laws and Statutes

- a. [Clean Air Act of 1990](#), as amended, Pub. L. No. 88-206 ([42 U.S.C. § 7671k](#)).
- b. [Department of Transportation and Related Agencies Appropriations Act of 1996](#), Pub. L. No. 104-50 ([49 U.S.C. § 40110\(d\)](#)).
- c. [Emergency Planning and Community Right-to-Know Act of 1986](#) (EPCRA) ([42 U.S.C. §§ 11001-11050](#)).
- d. [Energy Independence and Security Act of 2007](#) (EISA), Pub. L. No. 110-140 ([42 U.S.C. § 8259b](#)).
- e. [Energy Policy Act of 1992](#), Pub. L. No. 102-486, as amended by the [Energy Policy Act of 2005](#), Pub. L. No. 109-58 ([42 U.S.C. § 8259b](#)).
- f. [Farm Security and Rural Investment Act of 2002](#), as amended, Pub. L. 107-171 ([7 U.S.C. § 8102](#)).
- g. [Federal Buildings Personnel Training Act](#), Pub. L. No. 111-308, ([40 U.S.C. § 581](#)).
- h. [Food, Conservation, and Energy Act of 2008](#), as amended, Pub. L. No. 110-246 ([7 U.S.C. § 8102](#)).
- i. [National Energy Conservation Policy Act of 1978](#), as amended ([42 U.S.C. §§ 8251-8262k](#)).
- j. [Pollution Prevention Act of 1990](#) (PPA), Pub. L. No. 101-508 ([42 U.S.C. § 13101\(b\)](#)).
- k. [Resource Conservation and Recovery Act of 1976](#) (RCRA), as amended, Pub. L. No. 94-580 ([42 U.S.C. § 6902\(b\)](#), [42 U.S.C. § 6962](#)).

2. Regulations

- a. Comprehensive Procurement Guideline for Products Containing Recovered Materials ([40 CFR Part 247](#)).
- b. Department of Transportation Acquisition Regulation (TAR) ([48 CFR §§ 1200 – 1299](#)).
- c. Federal Acquisition Regulation (FAR) Part 23, Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace ([48 CFR Part 23](#)) (not applicable to FAA).
- d. Federal Energy Management and Planning Programs ([10 CFR Part 436](#)).
- e. Federal Management Regulation (FMR), Subchapter B - Disposition of Excess Personal Property ([41 CFR Part 102-36](#)).
- f. Federal Management Regulation (FMR), Subchapter B – Replacement of Personal Property Pursuant to the Exchange/Sale Authority ([41 CFR Part 102-39](#)).
- g. Guidelines for Designating Biobased Products for Federal Procurement ([7 CFR Part 3201](#)).
- h. Protection of Stratospheric Ozone ([40 CFR Part 82](#)).

3. Executive Actions

- a. CEQ: [Implementing Instructions](#) for EO 13834, Efficient Federal Operations, April 2019.
- b. [EO 13834](#), Efficient Federal Operations, May 2018.
- c. [OMB Circular No. A-11](#), Preparation, Submission, and Execution of the Budget, June 2019.
- d. [OMB Memorandum M-19-13](#), Category Management: Making Smarter Use of Common Contract Solutions and Practices, March 2019.
- e. [OMB Memorandum M-16-02](#), Category Management Policy 15-1: Improving the Acquisition and Management of Common Information Technology: Laptops and Desktops, October 2015.

4. Guidance and Directives

- a. DOE: [Contracting for Efficiency: A Best Practices Guide for Energy-Efficient Product Procurement](#), December 2019.
- b. DOT Acquisition Manual (TAM).
- c. EPA: [Recommendations of Specifications, Standards, and Ecolabels for Federal Purchasing](#), July 2019.
- d. [FAA Acquisition Management System \(AMS\) Policy](#).

5. Online Resources

- a. DOE: [Energy Efficient Products](#)
- b. DOE: [Low Standby Power Products guidance](#)
- c. DOT: [Transportation All Acquisition Portal \(TAAP\)](#)
- d. EPA: [Energy Star Products](#)
- e. EPA: [Safer Choice Products](#)
- f. EPA: [Significant New Alternatives Policy \(SNAP\) Program](#)
- g. EPA: [Sustainable Marketplace: Greener Products and Services](#)
- h. EPA: [WaterSense Products](#)
- i. GSA: [Acquisition Gateway](#)
- j. GSA: [Facilities Management Institute](#), for assessing and achieving compliance with the Federal Buildings Personnel Training Act core competencies.
- k. GSA: [Green Procurement Compilation](#)
- l. GSA & OMB: [Category Management Initiative](#)
- m. USDA: [Biopreferred Product Categories](#)

APPENDIX II. KEY TERMS

1. ***Acquisition or Procurement***: Obtaining supplies or services (including construction) by contract using appropriated funds by and for the use of the Federal government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, or demonstrated and evaluated. Acquisition begins when agency needs are established and includes the description of requirements to satisfy agency needs, solicitation, selection of sources, contract award and financing details, contract performance and administration, and those technical and management functions directly related to the process of fulfilling agency needs by contract.
2. ***Best-In-Class (BIC)***: An acquisition designation to identify government-wide contracts that are vetted, well-managed, and recommended or required (pursuant to OMB Memoranda or other policy), and satisfy key criteria defined by OMB.
3. ***Biobased Product***: A product determined by the USDA to be a commercial or industrial product (other than food or feed) that is composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials or forestry materials.
4. ***BioPreferred***: A program run by the USDA created by the Farm Security and Rural Investment Act of 2002 (2002 Farm Bill), and expanded by the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill). The purpose is to increase the Federal purchase and use of biobased products, to, in turn, promote rural economic development, create new jobs, and to provide new markets for farm commodities.
5. ***Category Management (CM)***: A strategic business practice that the Federal government is implementing to buy smarter and more like a single enterprise.
6. ***Clause***: Term or condition used in contracts or in both solicitations and contracts, and applying after contract award or both before and after award.
7. ***Class I Substance***: See “ozone-depleting substance” definition.
8. ***Contract Action***: Any oral or written, authorized action that results in the purchase, rent, or lease of supplies or equipment, services, or construction using appropriated dollars over the micro-purchase threshold, or modifications to these actions regardless of dollar value. 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.

9. ***Contracting Officer's Representative (COR)***: An individual, including a CO's technical representative, designated and authorized in writing by the contracting officer to perform specific technical or administrative functions.
10. ***Comprehensive Procurement Guidelines (CPG)***: An EPA designation of items that must contain recovered materials when purchased by Federal agencies, or by government contractors using appropriated Federal funds. EPA periodically reviews existing CPG product designations for effectiveness, obsolescence, and consistency with other product designation programs.
11. ***Department of Transportation Acquisition Regulation (TAR)***: Establishes uniform acquisition policies and procedures, which implement and supplement the FAR. It does not apply to FAA.
12. ***Department of Transportation Acquisition Manual (TAM)***: The TAM contains DOT internal policy, procedures, and instructional guidance to DOT. The TAM implements and supplements the FAR and TAR (does not apply to FAA).
13. ***DOT Acquisition Documents***: The documents that govern DOT's purchase of goods and services, including the FAR, TAR, TAM, and AMS (for FAA only).
14. ***FAA Acquisition Management System (AMS)***: Establishes an acquisition life cycle management system for FAA, including both a contracting and program management system. AMS policy takes precedence over all other FAA policy dealing with any aspect of lifecycle acquisition management and related disciplines. The FAA follows the AMS, rather than the FAR.
15. ***FEMP-Designated Product***: A product that is designated under FEMP as being among the highest 25 percent of equivalent products for energy efficiency (42 U.S.C. § 8259b(a)(4)).
16. ***ENERGY STAR®-Labeled Product***: A product that is rated for energy efficiency under EPA's ENERGY STAR® program (42 U.S.C. § 8259b(a)(2)).

17. **EPEAT®-Registered Products:** Products listed on the EPEAT® Product Registry located at www.epeat.net. EPEAT® helps purchasers evaluate, compare, and select electronic products based on their environmental attributes. The EPEAT® Registry includes products that have been declared by their manufacturers to be in conformance with the Institute of Electrical and Electronics Engineers (IEEE) 1680 Family of Environmental Assessment Standards. EPEAT®-registered products must meet criteria in the multiple performance categories, such as material selection, design for end-of-life, energy conservation, and packaging. All EPEAT®-registered products are required to meet the ENERGY STAR® technical specifications for that product, in addition to meeting other environmental performance criteria.
18. **Executive Action:** Includes EOs, presidential memoranda, implementing instructions, and other documents issued by the Executive Office of the President.
19. **Federal Acquisition Regulation (FAR):** A set of regulations governing the Federal government's purchasing process. Ensures purchasing procedures are standard and consistent, and conducted in a fair and impartial manner.
20. **Federal Procurement Data System-Next Generation (FPDS-NG):** A database system for U.S. government procurement and Federal contracting data. The FPDS-NG system allows for millions of procurement transactions from across the Federal government to be recorded and reported upon in real-time.
21. **Life Cycle Cost:** The amortized annual cost of a product, including costs associated with capital, installation, operations, maintenance, and disposal, discounted over the lifetime of the product. Subpart A of 10 CFR § 436 describes the life cycle cost analysis methodology.
22. **Micro-Purchase:** An acquisition of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed designated thresholds, as outlined in the FAR at 48 CFR § 2.1.
23. **Ozone-Depleting Substance (ODS):** Any substance designated as a Class I or Class II substance by the EPA in 40 CFR § 82.
24. **Performance Contract:** A contract that identifies expected deliverables, performance measures, or outcomes, and makes payment contingent on their successful achievement. Performance contracts also use appropriate techniques, which may include consequences or incentives, to ensure that the agency receives the agreed-upon value. Any qualified contractor, including utilities, can conduct performance contracts.

25. **Performance Requirements:** Basic business functions or operational criteria that a product or service must meet to fulfill mission needs. DOT performance requirements are determined by the COR/PR Initiator.
26. **Postconsumer Material:** A material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. If recovered, postconsumer material can be repurposed into new products.
27. **Procurement Request (PR) Initiator:** The PR initiator represents the program, project and/or organization that has the need for the product or service procured. They provide the programmatic and technical expertise and serve as the responsible party for the initiation of the PR. The PR Initiator is often also the COR but in some cases may be distinct from the COR, if the PR lacks the appropriate COR certifications. In these cases, the COR and PR work together to ensure sustainable requirements are met in the acquisition process.
28. **Recovered Material:** Also known as recycled material, or recycled content. Waste material and by-products that have been recovered or diverted from solid waste. Does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process. With respect to paper and paper products, the FAR at 48 CFR § 11.301 provides additional detail.
29. **Specification:** A clear and accurate description of the technical requirements for materials, products, or services including the minimum requirement for materials' quality and construction and any equipment necessary for an acceptable product. In general, specifications are in the form of written descriptions, drawings, prints, commercial designations, industry standards, and other descriptive references.
30. **Spend-Under-Management (SUM):** The percentage of an organization's spend that is actively managed according to category management principles.
31. **Statement of Work (SOW):** The portion of a contract that establishes and defines all non-specification requirements for the contractor's efforts, either directly or with the use of specific cited documents.
32. **Sustainable Acquisition:** Also known as Green Purchasing, refers to purchasing products with environmental benefits and purchasing services under which these products will be supplied or used. Federal agencies are required to purchase sustainable products and services, as required by various laws, EO 13834, and the FAR. While sustainable acquisition is the primary focus of FAR Part 23, it is also addressed in FAR Parts 2, 4, 7, 8, 10, 11, 12, 36, 39, 42, and 52. Sustainable Acquisition applies to all acquisitions and contracting mechanisms

used by Federal agencies, including service contracts, leases, purchases made with government purchase and fleet cards and purchases below the micro-purchase threshold.

33. ***Water Efficient Product or Service:*** A product or service that uses less water than competing products or services, and serves the same purpose. These include products meeting EPA's WaterSense standards.

APPENDIX III. GREEN PRODUCT AND SERVICES RESOURCES.

The GPC provides lists of products and services that meet statutory mandates. In addition, the following resources provide more detail about each program and help Federal purchasers efficiently and effectively identify and procure environmentally sustainable products and services that meet sustainability requirements.

1. The [Comprehensive Procurement Guidelines \(CPG\) program](#) is part of EPA's Sustainable Materials Management initiative that promotes a system approach to reducing materials use and the associated environmental impacts over the materials' entire life cycle. EPA designated products must be purchased with the highest recovered material content level practicable. Products are designated in the following categories: construction products, landscaping products, miscellaneous products such as bike racks and pallets, nonpaper office products, paper and paper products, park and recreation products, transportation products, and vehicular products.
2. The [FEMP Energy Efficient Products](#) website provides a complete and searchable list of products included in the [ENERGY STAR®](#), [EPEAT®](#), [FEMP-Designated](#), [FEMP low standby power](#), and [Water Sense](#) efficiency programs, including the following categories: appliances, commercial food service equipment, electronics and information technology, heating and cooling, and lighting. The FEMP Contracting for Efficiency: A Best Practices Guide for Energy-Efficient Product Procurement document (December 2019).
3. The [USDA BioPreferred](#) and biobased designated products website identifies 139 categories (e.g. cleaners, carpet, lubricants, paints) of biobased products for which agencies and their contractors have mandatory purchasing requirements.
4. EPA programs and labels designate products and services that meet EPA's performance specifications, including:
 - a. [WaterSense](#): Water efficient products that are backed by independent, third-party certification and meet EPA's specifications for water efficiency and performance. Product categories include faucets, toilets, showerheads, urinals, pre-rinse spray valves, irrigation controllers, and spray sprinkler bodies.
 - b. [SaferChoice](#): Products with the Safer Choice label help buyers identify products with safer chemical ingredients, without sacrificing quality or performance. Product categories include all-purpose cleaners, car care products, dish soaps, floor cleaners, laundry products, and tub and tile cleaners.

- c. [Significant New Alternatives Policy \(SNAP\)](#): Identifies substitutes for ozone-depleting substances to reduce overall risk to human health and the environment. The industrial sectors with approved substitutes include: Adhesives, coatings, and inks, aerosols, cleaning solvents, fire suppression and explosion protection, foam blowing agents, refrigeration and air conditioning, sterilants, and tobacco expansion.
- 5. The [EPA Recommended Specifications, Standards, and Ecolabels for Federal Purchasing](#) currently cover 22 key Federal purchase categories and include over 40 private sector standards/ecolabels for use in Federal procurement. The covered categories include Cafeteria, Construction, Custodial, Electronics, Grounds/Landscaping, and Office/Furniture. The recommendations are based on an independent assessment of private sector environmental performance standards and ecolabels against the [EPA Guidelines for Environmental Performance Standards and Ecolabels](#).

APPENDIX IV. FPDS-NG SUSTAINABILITY REPORTING.

FPDS-NG is the government-wide portal for reporting contract awards, modifications, and orders. The system is owned and operated by the GSA, and is used by all Federal agencies to report all contracts and orders over the micro-purchase threshold, along with all modifications.

1. FPDS-NG allows tracking of contract actions that include sustainability clauses, allowing DOT to determine whether all contract actions meet the relevant requirements, and use CM solutions where practicable.
2. COs must correctly input sustainability data into FPDS-NG to ensure the contracts are correctly counted towards the acquisitions metrics.
 - a. There are two fields in FPDS-NG relating to sustainable acquisition: element number 8K – EPA Designated Product(s) and element number 8L – Recovered Materials/Sustainability. The code descriptions for each element are included in the table below.
3. OAs must confirm that the proper fields in FPDS-NG are coded when completing bulk entries of contract actions.

Instruction	Element	Code	Description
When purchasing products on the EPA Designated Products List without the required minimum recovered material content, a written justification based on exception codes B, C, or D below is required by FAR 23.405(b)(2). If more than one exception applies or more than one justification was completed, report the predominant exception code or the code for the highest cost EPA-designated item for which a justification was completed. Select the appropriate code.	8K - EPA Designated Product(s)	A	EPA-designated product or products were purchased and all contained the required minimum recovered material content.
		B	EPA-designated product or products were purchased without the required minimum recovered material content and a justification was completed based on inability to acquire the product(s) competitively within a reasonable time (FAR 23.404(b)(1)(i)).
		C	EPA-designated product or products were purchased without the required minimum recovered material content and a justification was completed based on inability to acquire the product(s) at a reasonable price (FAR 23.404(b)(1)(iii)).
		D	EPA-designated product or products were purchased without the required minimum recovered material content and a justification was completed based on inability to acquire the product(s) to reasonable performance standards in the specifications (FAR 23.404(b)(1)(ii)).

		E	No EPA-designated product(s) were required.
When EPA Designated Product(s) is coded as 'Not Required' (E), then "Recovered Materials/Sustainability" must be 'No Clauses Included and No Sustainability Included' (C), 'Energy Efficient' (D), 'Biobased' (E), or 'Environmentally Preferable' (F).	8L - Recovered Materials/ Sustainability	A	The solicitation included the provision at FAR 52.223-4, Recovered Material Certification.
		B	The solicitation included the provision at FAR 52.223-4, Recovered Material Certification and the contract includes the clause at FAR 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products
		C	Neither clause is included in the contract
		D	Energy efficient
		E	Biobased
		F	Environmentally preferable (http://www.whitehouse.gov/omb/procurement_index_green/)
		G	FAR 52.223-4 and energy efficient
		H	FAR 52.223-4 and biobased
		I	FAR 52.223-4 and Environmentally preferable
		J	FAR 52.223-4 and energy efficient and biobased
		K	FAR 52.223-4 and biobased and Environmentally preferable
		L	FAR 52.223-4 and biobased and energy efficient and Environmentally preferable