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3.6 Socio-Economic and Other Policies and Programs

3.6.1 Small Business Development Program Revised 7/2005

3.6.1.1 Applicability Revised 10/2012

The policies in this Section apply to FAA procurements for products and services but exclude those procurements using purchase cards, purchase card checks, electric utilities, real property, grants, memoranda of understanding, non-appropriated funds, contracts to be awarded and performed entirely outside of the United States, contracts with foreign governments or international organizations, agreements, and required sources of products/services and use of Government sources including products available from Federal Prison Industries (FPI) (refer to AMS Small Business Program Development Guidance).

3.6.1.2 Policy Revised 1/2010

The FAA must comply with Presidential directives, constitutional standards, public laws, and DOT Secretary Policy Statements to promote, expand, aggressively provide procurement opportunities as prime contractors and as subcontractors for small businesses, small businesses owned by socially and economically disadvantaged individuals, women-owned small businesses and service-disabled veteran owned small businesses. The FAA's Small Business Development staff currently has and will continue to have responsibility for:

- FAA's policy and program on the utilization of small business and small businesses owned and controlled by socially and economically disadvantaged individuals;
- Establishing mechanisms for monitoring and evaluating the effectiveness of the small business program; and
- Ensuring FAA-wide implementation and accomplishment of the small business program objectives.

Key features of the small business program will include:

- Competitive/noncompetitive set-asides;
- Establishment of eligibility criteria and measurable prime contracting and subcontracting goals;
- Vigorous outreach efforts;
- Mentor-Protégé Program; and
- Small business forums.

3.6.1.3 Principles for the Small Business Development Program Revised 7/2005

3.6.1.3.1 Program Goals Revised 7/2005

Prior to the end of each fiscal year, measurable annual FAA wide major procurement program

goals (including subcontracting goals) will be established to provide attainable and reasonable opportunities for small businesses and small businesses owned and controlled by socially and economically disadvantaged individuals to participate in contracts awarded by the FAA for the next fiscal year.

To ensure attainment of the program goals, senior management will be held responsible and goal achievement will be monitored at all levels in the agency. Additionally, the Small Business Development Staff will conduct vigorous outreach efforts that may include participating in Small Business Conferences, Small Business forums, etc.

3.6.1.3.2 Prime Contracting with Small Businesses Revised 1/2017

When appropriate, individual procurements may be set aside for competitive award among small businesses. Individual procurements may also be set-aside for small businesses two categories (combined set-asides).

3.6.1.3.3 Reserved Revised 1/2017

3.6.1.3.4 Set-Asides to Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals (8(a) Certified) Revised 1/2017

Except for those acquisitions being purchased using the agency purchase card, or those acquisitions subject to AMS 3.8.4.2, each acquisition of supplies or services having an anticipated dollar value exceeding $10,000, but not over $150,000, is automatically reserved exclusively for SEDB (8(a)) vendors unless the Contracting Officer, with review of the cognizant Small and Small Disadvantaged Utilization Specialist, determines there is not a reasonable expectation of obtaining offers from responsible SEDB (8(a)) concerns that are competitive in terms of market prices, quality and delivery. This requirement applies to Screening Information Requests (SIRs) issued on or after June 1, 2015. The Contracting Officer must submit the Small Business Set-Aside Determination and Coordination Form for all such acquisitions (see also AMS Small Business Development Program Guidance for use of this form). **These procurements may be either competitive or noncompetitive.**

In addition, other individual procurements outside the above specified range may be set-aside for competitive award among Socially and Economically Disadvantaged Businesses (SEDBs) that are 8(a) certified, when appropriate.

3.6.1.3.5 Noncompetitive Awards to SEDB (8(a)) Vendors Revised 7/2016

Individual procurements may be noncompetitively awarded to SEDB (8(a)) vendors when the anticipated total value of the procurement (including all options) is $6.5 million or below for procurements assigned manufacturing North American Industry Classification System codes and $4 million or below for all other procurements. Where a procurement exceeds the noncompetitive threshold, the procurement may be awarded on a noncompetitive basis to SEDB (8(a)) vendors if:

(1) there is not a reasonable expectation that at least two or more SEDB (8(a)) sources will submit offers that are in the Government's best interest in terms of quality, price and/or delivery; or (2) the award will be made to a concern owned by an Indian tribe or an Alaska Native Corporation. Noncompetitive awards above $22 million to SEDB 8(a) vendors must be justified and documented as indicated in AMS Small Business Development Procurement Guidance.

3.6.1.3.6 Set-Asides to Service-Disabled Veteran Owned Small Businesses Revised 10/2008

When appropriate, individual procurements may be awarded noncompetitively or set-aside competitively for award among service-disabled veteran owned small businesses.

3.6.1.3.7 Subcontracting with Small Businesses and Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals

When appropriate, subcontracting opportunities will be encouraged.

3.6.2 Labor Laws

3.6.2.1 Applicability Revised 10/2014

The Davis-Bacon Act (40 U.S.C. § 276a), Convict Labor (18 U.S.C. § 4082-(c)(2)), Copeland Act (18 U.S.C. § 874 and 40 U.S.C. § 276c), Walsh-Healey Public Contracts Act (41 U.S.C. §§ 6501-6511), Equal Employment Opportunity (Executive Order 11,141, 29 FR 2477), Service Contract Act (41 U.S.C. §§ 6701-6707), and other labor laws and regulations will apply to acquisitions for products, services, and construction.

3.6.2.2 Policy Revised 4/2017

The FAA will comply with labor laws when acquiring products, services, and construction, consistent with the thresholds established herein the Acquisition Management System.

3.6.3 Environment, Conservation, Occupational Safety, and Drug-Free Workplace Revised 4/2009

3.6.3.1 Applicability Revised 4/2009

This section applies to all FAA Screening Information Requests (SIRs) and contracts performed in the United States.

3.6.3.2 Policy Revised 10/2016

It is the policy of FAA to contract with entities that are in compliance with applicable environmental, energy, safety, and drug-free workplace laws, orders, and regulations.

FAA will ensure that sustainable acquisition requirements are included to the maximum extent practicable for all applicable procurements in the planning, award, and execution phases of the acquisition.

To achieve sustainable acquisition goals, FAA will meet statutory mandates for purchasing preference. If statutory mandates do not exist, FAA will give preference to purchasing sustainable products and services identified by EPA programs. Where no statutory mandates, EPA programs, or EPA recommended specifications, labels, or standards exist, FAA will give preference to non-federal specifications, standards, or labels to further advance sustainable procurements.

- FAA elects to follow the statutory mandates requiring purchase preference for: recycled-content products designated by EPA; energy and water efficient products and services, such as ENERGY STAR® qualified and Federal Energy Management Program (FEMP)-designated products; and the U.S. Department of Agriculture (USDA) BioPreferred and biobased designated products.
- Sustainable products and services identified by EPA programs include: Significant New Alternative Policy (SNAP) chemicals, WaterSense® certified products and services; Safer Choice® labeled products; and SmartWay® Transport partners and SmartWay products.
- Non-federal specifications, standards, or labels to further advance sustainable procurements must meet or exceed specifications, standards, or labels recommended by EPA or meet environmental criteria developed or adopted by voluntary consensus standards bodies consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (P.L. 104-113) and OMB Circular A-119.

Sustainable acquisition requirements are considered practicable unless there is an allowable exception for acquiring sustainable products or services. An allowable exception is available if any of the following conditions exist:

- Product or service cannot be acquired competitively within a reasonable performance schedule.
- Product or service cannot be acquired that meets reasonable performance requirements.
- Product or service cannot be acquired at a reasonable price. The price must be deemed unreasonable when the total life cycle costs are significantly higher for the sustainable product or service versus the non-sustainable product or service. Life cycle costs are determined by combining the initial costs of a product or service with any additional costs or revenues generated from that product or service during its entire life.
- An exception is provided by statute, such as the exception to procuring ENERGY STAR or FEMP-designated products under 42 U.S.C. § 8259b(b)(2).

If a product meets any of the aforementioned exceptions, FAA should strive to purchase a comparable product that is still environmentally sustainable (e.g., if a WaterSense product is not available at a reasonable price, FAA should purchase a similar product that is water efficient and available at a reasonable price). If at any point during the acquisition it is determined that a contract action cannot comply with the sustainable requirements due to an exception, the

Contracting Officer must document, within the contract file, the exception being used and rationale for using the exception.

3.6.3.3 Environmental Performance and Sustainability Factors Revised 10/2016

3.6.3.3.1 Recycled-Content Products Revised 10/2016

In order to meet the objectives of Executive Order (EO) 13693, FAA will procure products composed of recycled content, which are produced with waste materials and byproducts recovered or diverted from solid waste. Recycled-content products are designated in EPA's Comprehensive Procurement Guidelines (CPG) and FAA will purchase these products at the highest percentage of recovered content practicable. FAA should purchase uncoated paper (including office products or support services that include the supply of written documents) containing at least 50 percent post-consumer recycled content whenever practicable, but if not practicable, FAA will purchase uncoated printing and writing paper containing at least 30 percent post-consumer recycled content or higher. These considerations will be identified in procurement planning and SIR/contract documents.

3.6.3.3.2 Energy Conservation and Efficiency Revised 10/2016

In order to meet the objectives of EO 13693, the Energy Policy Act of 2005 (EPAct 2005), the Energy Independence and Security Act of 2007 (EISA 2007), and FAA Order 1053.1B (or the latest version), FAA will procure the most energy efficient products available, where life-cycle cost-effective and consistent with the mission need. In doing so, FAA will procure ENERGY STAR labeled and FEMP-designated products as well as electronic products or services that meet or exceed specifications, standards, or labels recommended by the EPA (e.g. Electronic Products Assessment Tool (EPEAT) electronic products is the highest assessment rating available in FY16). These considerations will be identified in the procurement planning and SIR/contract documents when procuring products or services affecting FAA energy consumption.

3.6.3.3.3 BioPreferred and Biobased Designated Products Added 10/2016

In order to meet the objectives of EO 13693, the Farm Security and Rural Investment Act of 2002, the Food Conservation and Energy Act of 2008, and the Agricultural Act of 2014, FAA will purchase and use USDA BioPreferred and biobased designated products, which are products derived from plants and other renewable agricultural, marine, and forestry materials and provide an alternative to conventional petroleum derived products. FAA will give preference to products composed of the highest percentage of biobased material practicable. These considerations will be identified in procurement planning, SIR/contract documents.

3.6.3.3.4 Alternatives to Ozone Depleting Substances and High Global Warming Potential Hydrofluorocarbons Added 10/2016

In order to meet the objectives of EO 13693 and the Clean Air Act, FAA will procure Significant

New Alternative Policy (SNAP) chemicals or other alternatives to ozone-depleting substances and high global warming potential hydrofluorocarbons, where feasible, as identified by SNAP. FAA will ensure that the product complies with statutory mandates (e.g., biobased) if applicable to the product category. These considerations will be identified in the procurement planning and SIR/contract documents.

3.6.3.3.5 Water Conservation and Efficiency Added 10/2016

In order to meet the objectives of EO 13693 and FAA Order 1053.1B (or the latest version), FAA will purchase WaterSense certified products and services. These considerations will be identified in the procurement planning and SIR/contract documents when procuring products or services affecting FAA water consumption.

3.6.3.3.6 Chemicals Management Added 10/2016

In order to meet the objectives of EO 13693, FAA will purchase Safer Choice labeled products to reduce the overall quantity of chemicals and toxic materials acquired, used, and disposed of. FAA will ensure that the product complies with the statutory mandates (e.g., biobased) if applicable to the product category. These considerations will be identified in the procurement planning and SIR/contract documents.

Additionally, FAA will implement EPA's Integrated Pest Management Principles and Water Efficient Landscaping practices to reduce and eliminate the use of toxic and hazardous chemicals and materials.

3.6.3.3.7 Fuel Efficient Products and Services Added 10/2016

In order to meet the objectives of EO 13693, FAA will improve supply chain efficiency by reducing the impact of shipping and transportation when procuring goods and services. As such, FAA will procure 1) SmartWay products; and 2) services from SmartWay Transport partners. These considerations will be identified in the procurement planning and SIR/contract documents.

3.6.3.4 Delivery of Electronic and Paper Documents Revised 10/2016

Contractors must submit acquisition-related documents electronically, to the maximum extent practicable. When paper documents are submitted to the FAA, they must be printed or copied double-sided. Refer to the Recycled-Content Products Policy above for additional requirements for delivery of paper documents.

3.6.3.5 Drug-Free Workplace Revised 4/2009

The FAA must deem any offer unqualified and ineligible for award unless the offeror has certified that it is a drug free workplace. After contract award, if there is adequate evidence to suspect that the contractor submitted a false certification or failed to comply with the

certification, the FAA may suspend payments, terminate the contract for default, debar or suspend the contractor, or take other appropriate action to obtain quality performance by a lawfully operating contractor.

3.6.3.6 Hazardous and Radioactive Materials

3.6.3.6.1 Hazardous Material Identification and Safety Data Revised 10/2016

It is FAA policy to comply with Occupational Safety and Health Administration (OSHA) regulations on hazardous materials, conditions and precautions. To comply with these regulations, FAA must obtain information from contractors when hazardous materials are provided to FAA. Contractors are required to identify any hazardous materials delivered under a contract, as defined in Federal Standard 313; and must provide Safety Data Sheets for all identified hazardous materials.

3.6.3.6.2 Notice of Radioactive Material Revised 10/2016

The contractor is required to notify the FAA, prior to delivery, of radioactive material that requires specific licensing under the Atomic Energy Act of 1954; or material with a specific activity that is greater than 0.002 microcuries per gram, or a specific activity per item exceeds 0.01 microcuries.

3.6.3.7 Waste Management Added 10/2016

Contractors must comply with the waste reduction and reporting requirements set forth by FAA with regard to increasing the diversion of non-hazardous solid waste, construction and demolition (C&D) debris, and organic and compostable materials from the waste stream. Waste management will further be accomplished through employing source reduction strategies (such as purchasing items that require less packaging materials during shipping) and reducing printing paper use. Waste management factors must be considered, to the maximum extent practicable, in acquisitions where their application would be meaningful and consistent with meeting FAA requirements. These factors must be identified in the procurement planning and SIR/ contract documents.

3.6.4 Foreign Acquisition Revised 4/2014

3.6.4.1 Buy American Act Added 10/2014

The FAA will comply with the tenets of the Buy-American Act (41 U.S.C. §§ 8301-8305) as part of the agency's best value determination during the contractor selection process.

3.6.4.2 Export Control Added 4/2014

The FAA will comply with all U. S. Export Control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130 and the Export Administration Regulations (EAR), 15 CFR Parts 730 through 774.

3.6.5 Indian Incentive Program

The FAA is subject to the requirements of paragraph 1544 of 25 U.S.C. that establishes an incentive payment for contractors of Federal agencies that subcontract with or use suppliers who are Indian organizations or Indian-owned economic enterprises in performing the contract. This incentive payment may be equal to 5 percent of the amount paid, or to be paid, to a qualifying subcontractor or supplier that is an Indian organization or Indian-Owned economic enterprise.

3.6.6 Fastener Quality Act

The FAA must comply with Pub. L. 101-592, as amended by Pub. L. 104-113 in equipment and construction applications which require the use of high-strength fasteners.