

## Acquisition Management Policy - (4/2020)

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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) and Service-Disabled Veterans Revised 7/2019**

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 and/or Service-Disabled Veteran-Owned Small Businesses (SDVOSBs) unless the Contracting Officer determines there is not a reasonable expectation of obtaining offers from responsible SEDB (8(a)) or SDVOSB concerns that are competitive in terms of market prices, quality and delivery. The Contracting Officer must submit the Small Business Set-Aside Determination and Coordination Form if not setting aside for either SEDB (8(a)), SDVOSB, or small business firms for acquisitions exceeding \$10,000 but not over \$150,000 (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, or Service-Disabled Veteran-Owned firms, 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 1/2020**

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 all contract actions and purchases comply with statutory requirements, where applicable to the product or service. FAA should prioritize products and services that meet more than one of the applicable requirements and is encouraged to procure products and services in a cost-effective manner that advance achievement of energy and environmental performance goals. FAA will use Category Management solutions to the maximum extent practicable, which can help meet sustainability goals and better leverage the government's buying power.

FAA will give purchasing preference to products that:

- Meet minimum requirements for recycled content as identified by EPA's Comprehensive Procurement Guideline (CPG) Program;
- Are designated as biobased or BioPreferred by USDA; and
- Are certified by ENERGY STAR® or designated by FEMP as energy efficient products.

FAA will maximize substitution of alternatives to ozone-depleting substances in its procurements, as identified under EPA's Significant New Alternatives Policy (SNAP) program.

FAA should also seek sustainable products and services identified by other EPA programs, including WaterSense®, Safer Choice®, and SmartWay® as well as non-federal specifications, standards or labels that meet or exceed those recommended by EPA or meet criteria developed or adopted by consensus standards bodies.

### **3.6.3.3 Environmental Performance and Sustainability Factors Revised 10/2016**

#### **3.6.3.3.1 Recycled-Content Products Revised 1/2020**

In order to meet the objectives of Executive Order (EO) 13834, 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. The decision not to procure such items will be based on a determination that such procurement items:

1. Are not reasonably available within a reasonable period of time;
2. Fail to meet the performance standards set forth in the applicable specifications or fail to meet

- the reasonable performance standards of the procuring agencies; or
3. Are only available at an unreasonable price.

#### **3.6.3.3.2 Energy Conservation and Efficiency Revised 1/2020**

In order to meet the objectives of EO 13834, the Energy Policy Act of 2005 (EPA 2005), the Energy Independence and Security Act of 2007 (EISA 2007), and FAA Order 1053.1B (or the latest version), FAA will procure ENERGY STAR® -labeled and FEMP-designated products. FAA will also promote electronics stewardship throughout the acquisition life cycle and ensure a procurement preference for environmentally sustainable electronic products in accordance with statutory mandates such as Electronic Products Assessment Tool (EPEAT)-registered products. These considerations will be identified in the procurement planning and SIR/contract documents when procuring products or services affecting FAA energy consumption. The decision not to procure such items will be based on a determination that such procurement items:

1. Are not reasonably available within a reasonable period of time;
2. Fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the procuring agencies; or
3. Are only available at an unreasonable price.

#### **3.6.3.3.3 BioPreferred and Biobased Designated Products Revised 1/2020**

In order to meet the objectives of EO 13834, 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. The decision not to procure such items will be based on a determination that such products within a product category:

1. Are not reasonably available within a reasonable period of time;
2. Fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the procuring agencies; or
3. Are only available at an unreasonable price.

#### **3.6.3.3.4 Alternatives to Ozone Depleting Substances and High Global Warming Potential Hydrofluorocarbons Revised 1/2020**

In order to meet the objectives of EO 13834 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 Revised 1/2020**

In order to meet the objectives of EO 13834 and FAA Order 1053.1C (or the latest version),

FAA should 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 Revised 1/2020**

In order to meet the objectives of EO 13834, FAA should 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.

#### **3.6.3.4 Delivery of Electronic and Paper Documents Revised 1/2020**

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 Revised 1/2020**

In order to meet the objectives of EO 13834, FAA will demonstrate incremental improvement on reducing the tons of non-hazardous solid waste generated and reducing the percentage of non-hazardous solid waste sent to treatment and disposal facilities. FAA will also demonstrate incremental improvement on reducing the tons of non-hazardous construction and demolition (C&D) materials and debris generated and reducing the percentage of non-hazardous C&D materials and debris sent to treatment and disposal facilities. Contractors must comply with the waste reduction and reporting requirements set forth by FAA with regard to the diversion of non-hazardous solid waste and C&D debris. 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.

