

## 23.107-1 Products containing recovered materials.

(a) *Authorities.* The Resource Conservation and Recovery Act of 1976 (RCRA), [42 U.S.C. 6962](#), as implemented at [40 CFR part 247](#).

(b) *EPA Comprehensive Procurement Guidelines (CPG) Program.* Under RCRA, EPA must designate items that are or can be made with recovered materials and must also recommend practices to assist procuring agencies in meeting their obligations.

(c) *Applicability.*

(1) This section applies to contract actions involving an EPA-designated item, if—

(i) The price of the EPA-designated item exceeds \$10,000; or

(ii) The aggregate amount paid for multiple purchases of the EPA-designated item, or a functionally equivalent item, in the preceding fiscal year was \$10,000 or more.

(2) While micro-purchases are included in determining the aggregate amount paid under paragraph (c)(1) of this section, it is not necessary for an agency to track micro-purchases when—

(i) The agency anticipates the aggregate amount paid will exceed \$10,000; or

(ii) The agency intends to establish or continue an affirmative procurement program as described in paragraph (d) of this section in the following fiscal year.

(d) *Agency affirmative procurement program.* An agency shall establish an affirmative procurement program for EPA-designated items if the agency's purchases of EPA-designated items exceed the threshold set forth in paragraph (c)(1) of this section.

(1) Agency affirmative procurement programs must include—

(i) A recovered materials preference program;

(ii) A program to promote the recovered materials preference program;

(iii) A program for requiring reasonable estimates and certification of recovered material used in the performance of contracts, including a preaward certification that products will meet EPA recommendations (see [52.223-4](#), Recovered Material Certification), and either an estimate or a certification at contract completion (see [52.223-9](#), Estimate of Percentage of Recovered Material Content for EPA-Designated Items, and its Alternate), as well as agency procedures for verification of estimates and certifications;

(iv) Annual review and monitoring of the effectiveness of the affirmative procurement program; and

(v) Guidance for purchases of EPA-designated items at or below the micro-purchase threshold.

(2) Technical or requirements personnel and procurement personnel are responsible for the preparation, implementation, and monitoring of affirmative procurement programs.

(3) Agencies have a period of 1 year to revise their affirmative procurement program(s) after the designation of any new item by EPA.

(e) *Procedures.* The following procedures apply when the thresholds set forth in paragraph (c)(1) of this section are exceeded.

(1) Once an item has been designated by EPA, agencies shall purchase conforming products to the maximum extent practicable in accordance with 23.104(a), unless a justification, exception, or exemption applies (see 23.104(a), 23.105, and 23.106, respectively).

(2) Agencies may use their own specifications or commercial product descriptions when procuring products containing recovered materials; however, the contract should specify that the product is composed of the—

(i) Highest percentage of recovered materials practicable; or

(ii) Minimum content standards in accordance with EPA's RMANs.

(3) When acquiring products with recovered material, the contracting officer may request information or data on such products, including recycled content or related product standards (see 11.301(c)).

(f) *Resources.*

(1) For information on EPA-designated items and associated minimum content standards, see <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program#products>.

(2) Contracting officers should also consult their agency's affirmative procurement program for agency-specific guidance.

**Parent topic:** 23.107 Statutory purchasing programs.