

23.109 Solicitation provisions and contract clauses.

(a) *General*. Insert the clause at 52.223-23, Sustainable Products and Services, in solicitations and contracts—

(1) Unless—

(i) The requiring activity has provided a written justification that it is not practicable to procure sustainable products and services (see 23.104(a));

(ii) An exception under 23.105 applies; or

(iii) An exemption under 23.106 applies; and

(2) The scope of the written justification, exception, or exemption covers the entirety of the contract action requirements.

(b) *EPA-designated items*. Except for the acquisition of COTS items—

(1) Insert the provision at 52.223-4, Recovered Material Certification, in solicitations that require the delivery or specify the use of EPA-designated items; and

(2) Insert the clause at 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-designated Items, in solicitations and contracts exceeding \$150,000 that are for, or specify the use of, EPA-designated items containing recovered materials. If technical personnel advise that estimates can be verified, use the clause with its Alternate I.

(c) *Biobased products in USDA-designated product categories*.

(1) Insert the provision at 52.223-1, Biobased Product Certification, in solicitations, other than for acquisitions described at 23.105(d), that—

(i) Require the delivery or specify the use of biobased products in USDA-designated product categories; or

(ii) Include the clause at 52.223-2.

(2) Insert the clause at 52.223-2, Reporting of Biobased Products Under Service and Construction Contracts, in service and construction solicitations and contracts, unless the contract will not involve the use of biobased products in USDA-designated product categories at <https://www.biopreferred.gov> or 7 CFR part 3201.

(d) *Products containing ozone-depleting substances and hydrofluorocarbons*. Except for contracts for supplies that will be delivered outside the United States and its outlying areas, or contracts for services that will be performed outside the United States and its outlying areas, insert the following clauses:

(1) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons, in solicitations and contracts for-

- (i) Refrigeration equipment (in product or service code (PSC) 4110);
- (ii) Air conditioning equipment (PSC 4120);
- (iii) Clean agent fire suppression systems/equipment (*e.g.*, installed room flooding systems, portable fire extinguishers, aircraft/tactical vehicle fire/explosion suppression systems) (in PSC 4210);
- (iv) Bulk refrigerants and fire suppressants (in PSC 6830);
- (v) Solvents, dusters, freezing compounds, mold release agents, and any other miscellaneous chemical specialty that may contain ozone-depleting substances or high global warming potential hydrofluorocarbons (in PSC 6850);
- (vi) Corrosion prevention compounds, foam sealants, aerosol mold release agents, and any other preservative or sealing compound that may contain ozone-depleting substances or high global warming potential hydrofluorocarbons (in PSC 8030);
- (vii) Fluorocarbon lubricants (primarily aerosols) (in PSC 9150); and
- (viii) Any other manufactured end products that may contain or be manufactured with ozone-depleting substances.

(2) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners, in solicitations and contracts that include the maintenance, service, repair, or disposal of-

- (i) Refrigeration equipment, such as refrigerators, chillers, or freezers; or
- (ii) Air conditioners, including air conditioning systems in motor vehicles.

(3) 52.223-20, Aerosols, in solicitations and contracts—

- (i) For products that may contain high global warming potential hydrofluorocarbons as a propellant, or as a solvent; or
- (ii) That involve maintenance or repair of electronic or mechanical devices.

(4) 52.223-21, Foams, in solicitations and contracts for—

- (i) Products that may contain high global warming potential hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons as a foam blowing agent, such as building foam insulation or appliance foam insulation; or
- (ii) Construction of buildings or facilities.

Parent topic: Subpart 23.1 - Sustainable Products and Services