

GSA Acquisition Policy Federal Advisory Committee (GAP FAC)



Committee Comments: FAR Rule on Sustainable Procurement (FAR Case 2022-006)

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COMMENTS

Statement of Support

On behalf of the General Services Administration (GSA) Acquisition Policy Federal Advisory Committee ([GAP FAC](#)), we are pleased to submit the Committee's comments in response to FAR Case 2022-006, Federal Acquisition Regulation: Sustainable Procurement.

Under the framework of the Federal Advisory Committee Act (5 U.S.C. App. 2), GAP FAC serves as an advisory body to GSA on how GSA can use its acquisition tools and authorities to target the highest priority federal acquisition challenges. Pursuant to our charter, the initial focus of GAP FAC is driving regulatory, policy, and process changes required to embed climate and sustainability considerations in federal acquisition. The Committee has organized around three subcommittees with the following missions:

Acquisition Workforce: To empower and equip the federal acquisition workforce to prioritize environmental outcomes and promote sustainability throughout the acquisition lifecycle.

Industry Partnerships: To identify, engage and equip a broader and more diverse supplier base to achieve the government's goals of sustainability, environmental justice, economic equity, and a resilient domestic supply chain. Efforts will center towards small, midsize, underutilized, underrepresented businesses as well as innovative and new entrants.

Policy and Practice: To recommend actionable changes to GSA procurement policies and practices that encourage innovation and streamline the acquisition process to accelerate the demand for and utilization of goods and services from a diverse supplier base to achieve measurable progress on climate and sustainability goals.

GAP FAC believes that the proposed FAR Rule on Sustainable Procurement would be a significant achievement aligned with these missions.

Federal procurement experts often cite the federal government as the largest consumer of goods and services in the world. Therefore, utilizing the acquisition system to drive the government's implementation of sustainable goals for the products it acquires and the services it engages makes great sense. The federal government has a clear opportunity to use its unique market position to send clear demand signals to the private sector. Provided that procedures ensure small business participation, support social-economic and related guidelines and encourage competition, this approach holds great potential to advance and grow the utilization of sustainable products and services across the federal enterprise.

Dedicating FAR Part 23 to environmental matters sends a powerful message on the role that federal procurement can play in meeting our nation's sustainability goals. This prioritization also dovetails with GAP FAC's recommendation, adopted in May 2023, for GSA to establish a strategy to accelerate organizational change within the acquisition workforce by communicating shared expectations, creating a sense of urgency, and fostering a common mission and vision.

We also agree that the proposed rule will streamline and standardize the policies and procedures for purchasing sustainable products and services, making it easier for the federal acquisition workforce and the contracting community to meet the goal of ensuring the purchase of sustainable products to the maximum extent possible.

Ways that the proposed rule improve significantly on the existing Part 23 Rule include:

- Removing extraneous items from Part 23 (i.e, drug-free workplace policies; bans on contractor texting while driving)
- Consolidating purchasing program and federal facility requirements
- Providing helpful references to statutory authority, lead agency implementing regulations, and other lead agency information on particular programs

These revisions improve communication of environmental requirements and expectations through explanation of statutory programs, preferred products and other relevant federal guidelines. This information includes summaries of the overarching programs, references to statutory and lead agency implementation regulations, agency program requirements, and web addresses for primary program resources and information. Greater clarity will help address GAP FAC's finding that awareness, capabilities and knowledge in the vendor community around federal acquisition requirements for sustainability are not universally understood. The proposed FAR revisions will foster greater understanding of requirements, helping to broaden the pool of viable suppliers, including small and mid-sized, innovative firms that can bring game-changing technologies, products and services to address urgent sustainability and climate challenges.

The proposed rule establishes a new omnibus contract clause at FAR 52.223-XX, Sustainable Products and Services. We agree with the explanation of the proposed rule that this new clause will enable agencies to communicate requirements for sustainable products and services in a uniform manner and to better enforce the requirement to procure sustainable products and services as a standard term and condition of a contract.

We also note that the proposed rule will ensure products used in service contracts that are a direct cost to the government are sustainable products (in addition to existing requirements for products delivered to the government during performance and those furnished by the contractor for use by the government, including at a government-owned, contractor-operated facility).

Additionally, the proposed rule also updates agency requirements for construction and architect-engineer contracts under FAR Part 36 to ensure that all new construction and modernization projects greater than 25,000 gross square feet are designed, constructed and maintained to meet, and wherever practicable, exceed federal sustainable design and operations in accordance with the Council on Environmental Quality's Guiding Principles for Sustainable Federal Buildings and Associated Instructions.

Suggested Future Considerations

Looking ahead we see several important challenges in implementing a particular section of the proposed rule:

Data Standards and Collection: More support should be provided to the acquisition workforce to meet the intent of the proposed rule to “procure sustainable products and services to the extent practicable” by ensuring the workforce is provided accurate, reliable and consistent data to identify a product or service as compliant. We encourage GSA to develop and implement a plan to establish stronger federal data standards and protocols for ecolabel certifications. Such an effort will require cross-agency coordination, and while we recognize that coordination and convening is outside the purview of the FAR Council, we hope that the FAR Council recognizes the importance of creating a federal green data standard and data collection protocol, and actively encourages agency leaders to work together to address these problems, which we describe briefly below.

1. Review Ecolabel Standards Under Product Families

EPA has developed a registry that contains source lists of compliant ecolabel products. These lists are being integrated into federal procurement systems including SFTool and GSA Advantage. Certification occurs at the product family level, with all products within that family identified as meeting EPA standards. However, within a product family, it is possible that individual products may not meet the ecolabel standards. The acquisition professional therefore may purchase products that are falsely identified as meeting the ecolabel’s expectations.

2. Work with Suppliers on Correct Categorization of Ecolabel Standards

Companies may categorize identical products under different families, leading to some product families (and their products) failing to qualify for an ecolabel when in fact they should.

3. Provide the Acquisition Workforce with Additional Ecolabel Data

Different federal ecolabel registries may exclude important information (beyond the product-level certification), which are critical to decision making for the federal acquisition worker. Example data include unique manufacturer part numbers, product type/category, product images, and other data not present in existing registries.

4. Standardize Data Across Federal Agencies

Federal agencies are using different data and storage standards during the development of their ecolabel registries. This situation makes it difficult to merge green data across multiple ecolabels and integrate them into existing procurement systems.

In summary, the GAP FAC believes that the proposed FAR Rule on Sustainable Procurement will help increase federal procurement of sustainable goods and services. The GAP FAC looks forward to continuing to explore ways to build on these efforts.