

## Sustainability Compliance Review Guidelines July 2022

### SUSTAINABILITY COMPLIANCE REVIEW DESIGNATIONS FOR FEDERAL PROCUREMENT CONTRACTS

The U.S. EPA (Environmental Protection Agency) EPP (Environmentally Preferable Purchasing) Team, in coordination with OMB's Office of Federal Procurement Policy, CEQ's Office of the Chief Federal Sustainability Officer, and the sustainability representatives on the Category Management teams, will review the appropriate contract documents for each BIC (Best in Class) contract against the sustainability text in the section below called *SUSTAINABILITY REQUIREMENTS/REFERENCES FOR FEDERAL PROCUREMENT CONTRACTS* and then provide one of the designations below. A subset of Tier 2 and Tier 1 contracts will also be reviewed to ensure compliance with the sustainability references below following the completion of the BIC reviews<sup>12</sup>.

- **GreenCheck—includes federal sustainability requirements as of date TBD.** During the annual review process a BIC or other contract solution will be designated as “GreenCheck” on the Acquisition Gateway, [Acquisition.gov](#), and [Solutions Finder](#)<sup>3</sup> if the contract documents properly reference: all the appropriate and applicable sustainability requirements in the FAR and the sustainable products and service requirements identified or recommended by the EPA, to the maximum extent practicable, as required by EO 14057. To qualify as “GreenCheck,” the contract documents must properly reference all appropriate and applicable sustainability requirements at the time the contract documents are either established (at the time of award), an option period is exercised, or the time of BIC designation/re-designation (if applicable). The “GreenCheck” designation will hold as long as the contract’s terms and conditions remain the same.
- **In process/commitment made.** A BIC or other contract solution will be deemed “In process/commitment made” if the contract documents do not properly reference all the appropriate sustainability requirements but the solution manager/contracting officer has committed to update the contract documents as necessary by next exercised option period (properly referencing all appropriate and applicable sustainability requirements at the time the update is done).
- **Not yet compliant/additional action needed.** A BIC or other contract solution will be deemed “Not yet compliant/ additional action needed” if the contract documents do not properly reference all the appropriate sustainability requirements described above.
- **Pending review.** A BIC or other contract solution will be deemed “pending review” if the contract documents have not yet been reviewed for sustainability requirements.

### DISAGREEMENTS OVER DESIGNATIONS

In the event of a disagreement between the Category Management team, the contract owner, and the EPA EPP Team about a designation for a BIC or other contract vehicle, OMB in consultation with the CMLC, will make the final designation determination.

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<sup>1</sup> Priority areas for solutions designated as SUM Tier 1 and 2 will be determined by OMB, based on consultation with and recommendations made by EPA, the GW CM PMO and Category Managers.

<sup>2</sup> When BIC solutions are not fully GreenCheck compliant, it will be noted in the Annual BIC Review and Action Plans with appropriate next steps noted.

<sup>3</sup> Other designations as required

## EXAMPLE SUSTAINABILITY COMPLIANCE REPORT FOR A FEDERAL PROCUREMENT CONTRACT

SUBJECT: Results of sustainability review of Widget Supplies contract

Hi Jane,

Thank you for partnering with us on the CM Sustainability Initiative. We have completed our review of the procurement contract document(s) for the Widget Supplies contract. Here is a summary of this review:

Name of procurement contract:	Widget Supplies
Managing agency:	Bureau of Widgets
Name of procurement contract owner:	Jane Smith
Contract document(s) reviewed:	<a href="https://sam.gov/opp/1234567890/view">https://sam.gov/opp/1234567890/view</a>
Sustainability compliance review designation:	Not yet compliant/additional action needed
Explanation for this sustainability designation:	The master contract document above was missing the following sustainability requirements/references (see the attached file containing all the sustainability requirements/references for the Widget Supplies contract): <ul style="list-style-type: none"><li>• 52.223-11</li><li>• 23.703</li></ul>
Actions needed to achieve compliance:	The sustainability designation will be changed to “In process/commitment made” once the contract owner sends a message to the individuals below indicating that the master contract will be updated to include the missing items above and by what date (the next exercised option period). <ul style="list-style-type: none"><li>• PGlock@omb.eop.gov</li><li>• Betty.Cremmins@ceq.eop.gov</li><li>• Sylvan.Stephan@epa.gov</li></ul> Please let the individuals above know when the contract documents include all of the sustainability requirements/references below so they can change the sustainability designation to “GreenCheck.”
Who to contact with questions:	<a href="mailto:Sylvan.Stephan@epa.gov">Sylvan.Stephan@epa.gov</a>

Please see the attached file containing all the proper sustainability requirements/references for the Widget Supplies contract.

If it's helpful to you, I would be glad to organize a call to discuss the sustainability review and the steps to ensure sustainability compliance. Please let me know if you have any questions.

Thank you, Stephan

**GENERIC SUSTAINABILITY REQUIREMENTS/REFERENCES FOR FEDERAL PROCUREMENT CONTRACTS**

(We will provide each BIC or other contract owner a customized set of sustainability requirements/references including only applicable sections).

**FAR clauses for sustainability.** This contract incorporates the relevant federal sustainability and environmentally preferable purchasing clauses referenced below from the Federal Acquisition Regulations with the same force and effect if they were given in full text:

Clause no.	Topic	Title / description
<a href="#">23.703</a>	Acquisition of environmentally preferable products and services (Water Sense, Safer Choice, and EPA Recommendations of Specifications, Standards, and Ecolabels)	Policy on cost-effective contracting preference programs promoting energy-efficiency, water conservation, and the acquisition of environmentally preferable products and services
<a href="#">47.305</a>	Reductions in energy consumption by transportation carriers (SmartWay)	Solicitation provisions, contract clauses, and transportation factors.
<a href="#">52.204-4</a>	Print or copy on double-sided and post-consumer fiber	Printed or Copied Double-Sided on Postconsumer Fiber Content Paper
<a href="#">52.223-3</a>	Hazardous material identification	Hazardous Material Identification and Material Safety Data
<a href="#">52.223-5</a>	Info for compliance with Emergency Planning and Community Right-to-Know Act	Pollution Prevention and Right-to-Know Information
<a href="#">52.223-10</a>	Waste reduction including reducing PFAS <sup>4</sup>	Waste Reduction Program
<a href="#">52.223-19</a>	Environmental Management Systems	Compliance with Environmental Management Systems

The following sustainability requirements only apply to this contract if the “Applies to this Contract” box below is checked:

Clause no.	Topic	Title / description	Applies to this Contract
<a href="#">23.704</a>	EPEAT for electronic products	Acquisition of EPEAT®-Registered Electronics	X
<a href="#">52.223-4</a> <a href="#">52.223-9</a> <a href="#">52.223-17</a>	Recovered/recycled materials (Comprehensive Procurement Guidelines for recycled content)	Recovered Material Certification; Affirmative Procurement of EPA-designated Items in Service and Construction Contracts Estimate of Percentage of Recovered Material Content for EPA-Designated Items	X
<a href="#">52.223-11</a> <a href="#">52.223-12</a> <a href="#">52.223-20</a>	SNAP, stratospheric ozone-depleting substances and	Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons;	X

<sup>4</sup> FAR [52.223-10](#) says in part, “Waste prevention means any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials” and “Consistent with the requirements of section 3(e) of Executive Order 13423, the Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract”

<a href="#">52.223-21</a>	hydrofluorocarbons causing climate change	Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners.	
<a href="#">52.223-13</a> <a href="#">52.223-14</a> <a href="#">52.223-16</a>	EPEAT for electronic products	Acquisition of EPEAT®-Registered Electronics	X
<a href="#">52.223-15</a>	ENERGY STAR, FEMP, energy efficiency	Energy Efficiency in Energy-Consuming Products	X
<a href="#">52.223-1</a> <a href="#">52.223-2</a>	Biobased / Biopreferred products	Biobased Product Certification and Affirmative Procurement of Biobased Products Under Service and Construction Contracts	X

Upon request, the Contracting Officer will share the full text from the contract file.

**EPA recommended ecolabels/standards & GSA Green Procurement Compilation.** Unless the contract otherwise states that an exemption within [FAR 23.105](#) or within [FAR 23.106](#) applies, vendors shall ensure that products and services purchased or provided through this contract comply with the FAR clauses above and, to the maximum extent practicable, meet the [U.S. EPA Recommendations of Specifications, Standards, and Ecolabels for Federal Purchasing](#). This can be achieved by ensuring that products and services purchased or provided through this contract meet the requirements in the GSA GPC (Green Procurement Compilation) found at: <https://sftool.gov/greenprocurement>.

**SmartWay for transportation.** In support applicable statutes, regulations, including FAR clause [47.305](#), [Section 141 of the Energy Independence and Security Act](#), and Executive Orders, and in recognition that harm to the environment, including from transportation-related greenhouse gas pollution, has quantifiable costs and negative impacts on the economy and federal agency operations, it is the Government's intent to reduce as far as practicable the environmental impacts of transportation provided under this contract. Contractors are encouraged to participate as Shipper Partners in the Environmental Protection Agency (EPA) [SmartWay Transport Partnership](#) to improve the environmental performance of freight and small package transport by adopting fuel- and emission-reducing strategies. Contractors are also encouraged to contract with SmartWay Partners for transportation of goods and ensure vehicles purchased or leased under this contract are [SmartWay Vehicle Certified](#). Contractors are requested to submit the EPA SmartWay Partner status of contractor and its ten largest transportation subcontractors used to transport goods.

**Electronics equipment disposal.** For any electronic equipment removed by the Contractor and scheduled to be refurbished or recycled, the Contractor is required to demonstrate as part of its management plan that those actions will be handled by a refurbisher or recycler that is third party certified to one of the known electronics recycling certification programs that is used in the United States, the Responsible Recycling Standard for Electronics Recyclers (R2) or the e-Stewards Standard for Responsible Recycling and Reuse of Electronic Equipment ©(e-Stewards®).