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Ms. Jennifer Hawes
Procurement Analyst
General Services Administration
1800 F St., NW
Washington, DC 20006

Ref: FAR Case 2022-006, Sustainable Procurement

Dear Ms. Hawes,

The Coalition for Government Procurement (“the Coalition”) appreciates the opportunity to submit industry comments in response to the Sustainable Procurement proposed rule (FAR Case 2022–006) that would amend the Federal Acquisition Regulation (FAR) to restructure and update FAR Part 23 to focus on current environmental and sustainability matters.

By way of background, the Coalition is a non-profit association of firms selling commercial services, products, and solutions to the Federal Government. Our members collectively account for tens of billions of dollars of the sales generated through the GSA Multiple Award Schedules (MAS) program, VA Federal Supply Schedules (FSS), the Government-wide Acquisition Contracts (GWAC), and agency-specific multiple award contracts (MAC). Coalition members include small, medium, and large businesses that account for more than \$145 billion in Federal Government contracts. The Coalition is proud to have worked with Government officials for more than 40 years towards the mutual goal of common-sense acquisition.

The Coalition is writing to support the proposed rulemaking that would amend the FAR to allow the Federal Government to purchase electronic products that demonstrate compliance with one of multiple acceptable specifications, standards, or ecolabels (including but not limited to EPEAT), as determined by the EPA Recommendations of Specifications, Standards, and Ecolabels. We also would like to raise several member questions for the FAR Council to clarify in the final rule.

Full and open competition is foundational to the Federal procurement system. The current requirement in FAR 23.703(b)(1) for Federal agencies to procure only Electronic Product Environmental Assessment Tool (EPEAT)-registered products, however, precludes the ability for other ecolabels and standards to compete in the Federal marketplace. Electronic products that meet ecolabels, such as TCO Certified, Blue Angel, and UL, are not eligible for Federal procurement despite such ecolabels being recognized by international organizations and governments as evidence of high environmental performance. Further, standards developed by standards bodies, such as IEEE, NSF and UL, are also unable to meet the FAR’s current sustainability requirements despite the fact that these ecolabels and standards often have required criteria that surpass what is currently in EPEAT.

Multiple voluntary consensus standards, specifications, and/or ecolabels can be used both to demonstrate compliance with federal sustainability requirements and to achieve sustainable benefits. Yet, the current FAR forces electronic producers to use only one, privately trademarked program, namely EPEAT, to verify that electronic products are eligible for Federal procurement. We believe that sole reliance on any one method or solution is not necessary nor is it appropriate, and it limits recognition of the progress that companies are making to pursue certification or qualification to other legitimate ecolabels and third-party environmental standards.

The Coalition appreciates the FAR Council's proposal to promote competition in the green procurement space as outlined in the proposed rule. Specifically, we support the proposal to remove all clauses associated with EPEAT requirements and their associated prescriptions in FAR subpart 23.7 and to replace the exclusivity of the EPEAT requirements with the requirement to procure products and services that meet EPA Recommendations of Specifications, Standards, and Ecolabels in the new clause at FAR 52.223-XX.

We believe that the proposed change will-

- Allow for multiple voluntary consensus standards and labels to be incorporated into the EPA Recommendations of Specifications, Standards, and Ecolabels (in addition to EPEAT) and therefore eligible for purchase by Federal agencies;
- lower costs and eligibility burdens, yet still maintain strong environmental advantages; and
- benefit government interests in several areas, such as increasing competition and removing barriers to doing business with the government, without penalizing companies that have voluntarily invested in similar efforts.

In addition, the Coalition would like to submit the following individual questions from member companies for clarification in the final rule.

Member Questions

1. Given the language used in section (b)(1)(iii) of the new clause (copied below for reference), does this clause apply to firm-fixed price contracts? Firm-fixed contracts do not identify indirect costs to the government and thus appear to be excluded. Additionally, is (b)(1)(iii) meant to apply to service contracts that involve goods/products/hardware as part of that service?

“(iii) Furnish sustainable products and services for use in performing services under this contract, where the cost of the products is a direct cost to this contract (versus costs which are normally applied to the Contractor's general and administrative expenses or indirect costs).”

2. Is (b)(i)(1) (copied below for reference) meant to apply only to contracts for goods, or also contracts for services?

“(i) Deliver and furnish sustainable products and services for Government use, including use at Government-owned contractor-operated facilities.”

3. How will contracting officers assess a contractor's compliance with the requirements of this rule? Will compliance be considered in the contract award decisions?
4. What will the FAR Council do to ensure that contracting officers and contractors are made aware that ecolabels have been added to the EPA Recommendations of Specifications, Standards, and Ecolabels for Federal Purchasing list? Contractors may not be aware that ecolabels that apply to their products and services are in the Recommendations.

Thank you again for the opportunity to submit public comments on the proposal to dedicate FAR Part 23 to environmental matters. If you have any questions, please contact Aubrey Woolley at awoolley@thecgp.org or (202) 315-1053.

Best regards,



Roger Waldron
President
The Coalition for Government Procurement