



U.S. General Services Administration

A photograph of the U.S. Capitol dome and an American flag waving against a clear blue sky. The dome is white with gold accents, and the flag is red, white, and blue.

Implementing Sustainable Procurement Within U.S. Government

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Overview

- Legal and regulatory overview
- Sustainable product and service requirements
- Conducting market research to identify additional sustainability risks
- Sustainable source selection
- Monitoring sustainable public procurement
- Challenges and lessons learned
- Questions/Discussion

Laws Requiring Sustainable Procurements

Laws	Requirement
Energy Policy Act of 1992	Established several energy management goals, as well as requirements for water and fleet fuel management.
Energy Policy Act of 2005	Established a number of energy management goals for Federal facilities and fleets. Many of the energy requirements have been updated in EISA and subsequent Executive Orders.
Energy Independence and Security Act of 2007 (EISA)	Required increased production of clean renewable fuels and increased efficiency of products, buildings, and vehicles being purchased.

Executive Orders Requiring Sustainable Procurements

Executive Order	Requirement
Executive Order 13423 (2007)	Established more challenging goals than the Energy Policy Act of 2005 and superseding previous Executive Orders.
Executive Order 13514 (2009)	It expanded upon the energy reduction and environmental performance requirements of Executive Order 13423.
Executive Order 13693 (2015)	Established more challenging goals for sustainable procurement than previous Executive Orders.

Agency Implementation of Sustainable Procurement Laws and Executive Orders

- Federal Acquisition Regulations (Part 23) were updated to provide detailed requirements for implementing sustainable procurement laws and Executive Orders.
- Agency Supplements (General Services Acquisition Manual Part 523) were updated to provide even more detailed guidance for workforce. This guidance goes into detail for pre-award and post-award sustainability requirements for procurements.
- Federal agencies have to develop, implement, and update an integrated Strategic Sustainability Performance Plan in order to achieve the goals and targets established in U.S. laws/regulations.

Environmental Requirements

- Recovered content- EPA CPG
- Low GHG/ozone depleting substances- EPA SNAP
- Energy efficient- DOE/EPA Energy Star
- Water efficient- EPA WaterSense
- Biobased- USDA BioPreferred
- Transportation emissions- EPA Smartway
- Non-hazardous chemicals- EPA SaferChoice
- Environmentally preferable (e.g. EPEAT, other ecolabels)
- Clean or renewable energy
- Alternative or zero emission fuel vehicles
- Energy efficient data centers
- Supply chain greenhouse gas emissions reporting

Socio-Economic Requirements

- Small business set-asides
- Women and minority owned business set-asides
- Veteran-owned and service disabled veteran-owned
- Handicapped and blind mandatory sources
- Prohibition on human trafficking
- Minimum wages for contractor employees
- Workplace safety and anti-discrimination policies

Specifying Sustainable Requirements in Procurements

- Procurement officer first decides products and services being purchased.
- Based on scope of procurement, officer then specifies applicable environmental requirements within statement of work.
- The type of product being procured determines whether Energy Star, EPEAT, or other ecolabel is required.
- The U.S. created the Green Procurement Compilation (<https://sftool.gov/greenprocurement>) to provide comprehensive tool that allows procurement officers to quickly determine what ecolabels and environmental requirements must be specified for each product type.

Relationship Between Federal Ecolabels and Non-Federal Ecolabels

- The U.S. government manages specific federal ecolabels. Examples include: Watersense, Energy Star, Smartway, BioPreferred.
- To supplement these ecolabels, the federal government is also required to specify applicable ecolabels not managed by the federal government but are recommended by the U.S. Environmental Protection Agency (EPA). Examples include: Green Seal, Greenguard, EPEAT.
- The full list of non-federal ecolabels currently recommended by the EPA is found here:
https://www.epa.gov/sites/production/files/2016-08/documents/interimrecommendations_final.pdf
- The list of non-federal ecolabels recommended by EPA is integrated into Green Procurement Compilation.

Allowable Exceptions For Sustainable Requirements

- Product or service cannot be acquired competitively within a reasonable performance schedule.
- Product or service cannot be acquired that meets reasonable performance requirements.
- Product or service cannot be acquired at a reasonable price. The price shall be deemed unreasonable when the total life cycle costs are significantly higher for the sustainable product or service versus the non-sustainable product or service.

Conducting Market Research to Identify Additional Sustainability Risks

- Identify and address social sustainability risks (human rights, labor rights)
- Research procurement impacts on greenhouse gas emissions
- Addressing Climate Change Risks

Identify and Address Social Sustainability Risks (Human Rights, Labor Rights)

- U.S. developed social sustainability module on SFTool (<https://sftool.gov/plan/545/social-sustainability>) to identify and address risks.
- Social sustainability includes promoting workers' rights and safe working conditions, preventing human trafficking, and addressing other human rights-related risks.
- Provides detailed Pre-Award and Post-Award Best Practices as well as includes sample language and links to top international resources.

Research Procurement Impacts on Greenhouse Gas Emissions

- Certain procurements produce large amount of greenhouse gas emissions (examples include: transportation, construction).
- For procurements producing a large amount of greenhouse gas emissions, consider adding requirement to disclose total emissions.
- Potential requirements include requiring contractor to:
 - Provide overall annual emissions at the corporate level; or
 - Provide emissions for individual procurement (life cycle emissions for producing and delivering laptop).

Addressing Climate Change Risks

- Identifying and addressing climate change risks in supply chain is a best practice for procurements.
- U.S. developed a Supply Chain Risk Management Framework (<https://sftool.gov/plan/553/framework-managing-climate-change-risks-federal-agency-supply-chains>) to provide guidance to assess climate or weather-related risks to supply chains and develop plans to minimize those risks.
 - This framework is intended to be used in conjunction with standard supply chain risk management planning.
 - Provides tools and resources to identify and address risks

Sustainable Source Selection

- Best Value
 - Project teams are encouraged to include sustainability factors or sub-factors in contractor selection criteria on high impact procurements
 - Examples
 - Contractor's past performance on delivering sustainable products/services and providing sustainability documentation/reports
 - Contractor's plan for meeting or exceeding sustainable requirements of project

Sustainable Source Selection

- Lowest Price Technically Acceptable
 - For procurements establishing minimum technical criteria for selecting contractors, project teams are encouraged to include sustainability criteria when appropriate.
 - Examples:
 - Contractor personnel must have relevant sustainability certification.
 - Contractor must have experience delivering sustainability services or products.
 - Contractor's performance plan must meet minimum sustainable requirements.

Monitoring Sustainable Procurements

- When Awarding Contract:
 - Document sustainable product/service requirements or exceptions
 - Document sustainable contractor reporting requirements
- After Contract Award:
 - Contractor sustainability reports
 - Contractor/Manufacturer product documentation showing compliance with sustainability requirements

Monitoring Sustainable Procurements

- Federal agency Strategic Sustainability Performance Plans
- Federal agency Program Management Reviews covering sustainability
- Biannual sustainability contract audits

Monitoring At Contract Award

- ▶ U.S procurement officers are required to enter sustainability data into the Federal Procurement Data System.
- ▶ **Indicators:**
 - ▶ Environmental and social sustainability product/service requirements
 - ▶ Sustainability contractor reporting
- ▶ **Target:** all contracts must have applicable requirements unless an allowable exception is documented

Monitoring After Contract Award

- Contractor Reporting Examples
 - For certain service and construction contracts, contractors are required to report at least annually the amount of USDA BioPreferred products purchased for the contract.
 - Waste diversion data for applicable service contracts
 - **Indicators:**
 - Dollar value of BioPreferred purchases
 - Percentage of waste diversion
 - **Target:** minimum 50% waste diversion unless an allowable exception is documented

Monitoring After Contract Award

- Contractor/Manufacturer compliance documentation
 - Project teams are required to take reasonable steps to verify compliance with sustainability requirements included in the contract.
 - U.S. developed online module called Verifying Delivery of Sustainable Products and Services (<https://sftool.gov/plan/541/verifying-delivery-sustainable-products-services>) to assist procurement officers with determining compliance.
 - **Indicator:** percentage of contracts providing documentation showing compliance
 - **Target:** acceptable documentation must be provided for all applicable procurements

Federal Agency Strategic Sustainability Performance Plans

- Federal agencies are required to produce a strategic sustainability performance plan that includes a section on sustainable acquisition.
- Sustainable acquisition section of plan outlines current actions being implemented as well as planned actions to improve sustainable acquisition program.
- **Indicator:** whether federal agency has produced acceptable strategic plan for implementing sustainable acquisition at agency level
- **Target:** all applicable federal agencies must provide an acceptable performance plan

Agency Program Management Reviews

- U.S. federal agencies conduct program management reviews (contract reviews) to determine whether procurements comply with regulations and laws.
- These reviews vary across U.S. federal agencies and programs but typically evaluate whether applicable sustainability regulations have been followed.
- **Indicator:** percent of contracts compliant with sustainability regulations and laws
- **Target:** all applicable contracts must be compliant with laws and regulations.

Biannual Sustainable Acquisition Audits

- Large federal agencies must audit 5% of applicable contracts biannually to verify sustainable requirements are included.
- Federal agencies report results of audits to White House as part of overall Sustainability Scorecard.
- **Indicator:** percentage of contracts including applicable sustainable requirements
- **Target:** all contracts must have applicable requirements unless an allowable exception is documented

Challenges in Monitoring and Reporting

- Training acquisition workforce to provide accurate sustainability data within reporting systems.
- Training contractors and subcontractors to provide accurate sustainability data within reporting systems.
- Updating legacy electronic systems to stay current with evolving sustainability regulations and best practices.

Challenges in Monitoring and Reporting

- Integrating monitoring and reporting into existing acquisition processes and electronic databases. The databases have to be easy for procurement workforce and contractors to use.
- Designing sustainability indicators and reporting processes to be effective yet understandable by the acquisition workforce.

Lessons Learned

- Focus on high impact indicators and devote resources to ensuring these high impact areas are implemented effectively before moving on to other indicators.
- Ensure all monitoring and reporting is done transparently with the results used to improve future performance. U.S. government publicizes available monitoring data on www.performance.gov website.
- To improve future performance, integrate sustainability requirements into acquisition regulations and keep requirements as concise and simple as possible.

Lessons Learned

- Supply chain greenhouse gas emissions need to be monitored as part of a sustainable public procurement program.
- Utilize multi-attribute standards and labels to efficiently include multiple environmental and socio-economic requirements as well as reduce the complexity of verifying contractor compliance.

Lessons Learned

- Manual audits or program management reviews are helpful to verify accuracy of sustainability data and correct deficiencies.
- In addition to quantitative data on sustainability outputs (procurements) and impacts (benefits), monitor institutionalization of sustainability program. See UN SPP Monitoring Report for key performance indicators for all 3 categories of monitoring.

Questions/Discussion

