Department of Energy
Acquisition Regulation

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ACQUISITION LETTER

This Acquisition Letter is issued under the authority of the Procurement Executive of DOE and NNSA.

Subject: Greening the Government Requirements in Contracting

References	Title
Executive Order 13101	Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition
Executive Order 13123	Greening the Government Through Efficient Energy Management
Executive Order 13148	Greening the Government Through Leadership in Environmental Management
Executive Order 13149	Greening the Government Through Federal Fleet and Transportation Efficiency
Executive Order 13221	Energy Efficient Standby Power Devices
FAR 23.2	Energy Conservation
FAR 23.4	Use of Recovered Materials
FAR 23.7	Contracting for Environmentally Preferable and Energy Efficient Products and Services
FAR 23.8	Ozone-Depleting Substances
FAR 23.9	Toxic Chemical Release Reporting
FAR 23.10	Federal Compliance with Right to Know Act and Pollution Prevention Requirements
FAR 52.223-4	Recovered Material Certification
FAR 52.223-5	Pollution Prevention and Community Right to Know
FAR 52.223-9	Certification and Estimate of Percentage of Recovered Material Content for EPA Designated Items
FAR 52.223-10	Waste Reduction Program

FAR 52.223-11	Ozone-Depleting Substances
FAR 52.223-12	Refrigeration Equipment and Air Conditioners
FAR 52.223-13	Certification of Toxic Chemical Release Reporting
FAR 52.223-14	Toxic Chemical Release Reporting
DEAR 970.2304	Use of Recovered/Recycled Materials
DEAR 970.5223-2	Acquisition and Use of Environmentally Preferable Products and Services

When is this Acquisition Letter (AL) Effective?

This AL is effective 10 business days after the date of issuance.

When Does this Acquisition Letter Expire?

This AL supercedes AL 2000-03 and is in effect until it is canceled or rescinded.

Whom Do You Contact for More Information?

Contact Richard Langston of the Office of Procurement and Assistance Policy, on 202-586-8247 or via e-mail at richard.langston@pr.doe.gov. A list of Internet information resources is attached to this AL.

What is "Greening the Government?"

Greening the Government is a series of 5 Executive Orders intended to improve the Federal impact on the environment and lead others along the route of environmental responsibility. The Orders are:

- 13101 - Greening the Government Through Waste Prevention, Recycling and Federal Acquisition;
- 13123 - Greening the Government Through Efficient Energy Management;
- 13148 - Greening the Government Through Leadership in Environmental Management;
- 13149 - Greening the Government Through Fleet and Transportation Efficiency, and,
- 13221 - Energy Efficient Standby Power Devices.

What is the Purpose of This Acquisition Letter?

The purposes of this Acquisition Letter are to continue the use of the Green Acquisition Advocates who were appointed by the Heads of the Contracting Activities pursuant to Acquisition Letter 2000-03 and add coverage for 3 new Greening the Government Executive Orders not originally included in Acquisition Letter 2000-03. The Green Acquisition Advocates serve as procurement experts and team members for Greening the Government initiatives within each DOE Contracting Activity. The role of the Green Acquisition Advocates is not to replace or assume the responsibilities of the Recycling Coordinators, Energy Coordinators or other environmental specialists but to ensure that the procurement organization is an informed and supportive team member. This Acquisition Letter includes appropriate roles and responsibilities for the Green Acquisition Advocates and the DOE procurement community as they partner with other DOE personnel to implement Government-wide Greening the Government initiatives. There are five Executive Orders (discussed below) which the Green Acquisition Advocates should take an active role in promoting and implementing.

What is the Background of this Acquisition Letter?

The Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. 6962, requires each Federal agency to establish a program to promote recycling and to procure products with recycled content when available. RCRA assigned the Environmental Protection Agency (EPA) the responsibility of identifying such products for Federal agency procurement through the use of a designated products list known as the Comprehensive Procurement Guidelines.

Executive Order 13101, Greening the Government Through Waste Prevention, Recycling and Federal Acquisition, was issued to improve Federal use of recycled products and environmentally preferable products and services and to establish Federal agency reporting requirements on Program performance. The Program is generally referred to as the Affirmative Procurement Program as that name was used in the Resource Conservation and Recovery Act. Section 402 requires that Agency Affirmative Procurement Program implementation responsibilities be shared between program, procurement, and other personnel. It requires Federal agencies to use their acquisition program as a tool to increase and expand markets for recovered materials through greater Federal preference and demand for such products. The Executive Order also requires the Department of Agriculture to establish a similar program for bio-based products. Executive Order 13123, Greening the Government Through Efficient Energy Management, promotes the acquisition of energy efficient products and services. It requires the Federal government to provide leadership by significantly improving its energy management to save dollars and to reduce emissions that contribute to air pollution and global climate change. It provides that the Federal government as a major consumer will promote energy and water efficiency and the use of renewable energy products and will foster markets for emerging technologies. It requires Federal agencies, when acquiring energy using products, to acquire Energy Star labeled products.

If Energy Star labeled products are unavailable, agencies will acquire products in the upper 25% of energy efficiency as designated by the Federal Energy Management Program. It encourages the procurement of renewable energy including solar energy. It also promotes the use of Energy Savings Performance Contracts to improve the energy efficiency of Federal facilities.

Executive Order 13148, Greening the Government Through Leadership in Environmental Management, is very broad. It promotes Federal environmental leadership through the establishment of environmental management systems at Federal facilities. It sets pollution prevention goals and calls on Federal facilities to reduce their releases and uses of toxic chemicals and their generation of hazardous waste. It requires environmental audits at Federal facilities to ensure compliance with environmental standards. It requires Federal facilities to be leaders and responsible members of their communities by informing the public and their workers of possible sources of pollution resulting from facility operations under the Emergency Planning and Community Right to Know Act. It calls for reduced use of ozone-depleting substances and encourages a phase out of their use by 2010. It also promotes cost effective, environmentally sound, landscaping practices.

Executive Order 13149, Greening the Government Through Federal Fleet and Transportation Efficiency, requires reduced use of petroleum through improvements in fleet fuel efficiency and the use of alternative fuel vehicles and alternative fuels. It requires the use of environmentally preferable motor vehicle products. It also requires all management contracts involving motor vehicle fleet operations to include terms requiring contractor compliance with the goals and requirements of the Executive Order.

Executive Order 13221, Energy Efficient Standby Power Devices, requires Federal agencies, when acquiring products that contain a standby power function, to purchase products that use no more than one watt in their standby power consuming mode. If such products are not available, agencies are to purchase products with the lowest standby power wattage.

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I. What is Current Acquisition Policy Relative to Greening the Government Requirements?

A. Executive Order 13101, Greening the Government Through Waste Prevention, Recycling and Federal Acquisition

(1) This Executive Order replaces Executive Order 12873, Federal Acquisition, Recycling and Waste Prevention. The requirements of the earlier Order and the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6962, are presently described in Subpart 23.4, Use of Recovered Materials, of the Federal Acquisition Regulation (FAR). The FAR amendment implementing Executive Order 13101, effective in August 2000, increase from 20% to 30% the required recovered material content of printing and writing paper, add the EPA Internet address for the list of designated products, revise the content certification requirement at FAR 52.223-9, extend the coverage to support service contractors providing services within a Federal facility, and update the clause at FAR 52.223-10. DOE has a rulemaking in process to amend the Department of Energy Acquisition Regulation (DEAR) to ensure that it is current with the more recent Executive Order and FAR.

(2) The Environmental Protection Agency maintains a list of products available with recycled content which Federal agencies are required to purchase. The EPA Internet information resource http://www.epa.gov/epaoswer/non-hw/procure/index.htm includes the list of products and other useful information. A list of the EPA-designated products is at Attachment 5. This program has been instrumental in promoting the development of new products with recycled content, such as printing and writing paper with recycled content and carpeting with recycled content. Federal agencies must procure recycled paper with a post consumer recovered content of not less than 30%. Federal contractors are encouraged to print and copy double-sided using such paper pursuant to a clause at FAR 52.204-4. The FAR provides both a solicitation provision and contract clause to be used when contracting for, or specifying the use of, products with recovered materials. The solicitation provision at FAR 52.223-4, Recovered Material Certification, must be used to obtain the offeror's certification that it will supply materials with the minimum recovered material content. The contract clause at FAR 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products, should be used to obtain the contractor's certification upon contract completion. Contractors operating Government facilities participate in the Affirmative Procurement Program pursuant to DEAR 970.2304 and report their purchases pursuant to the clause at DEAR 970.5223-2. The Department has a longstanding commitment to 100% compliance in the acquisition of EPA-designated products.

(3) The Affirmative Procurement Program has annual reporting requirements. The Affirmative Procurement Program is the only environmental initiative to have a procurement reporting requirement. This is met through an annual report to the Office of the Federal Environmental Executive. An electronic reporting system has been developed for this purpose. Information about DOE's Affirmative Procurement Program and its reporting system may be found at http://www.doep2.org/ap/. All purchases, including micro-purchases, must be reported. The Green Acquisition Advocate and the Recycling Coordinator should coordinate as appropriate to ensure that any work process changes at their site are implemented in a manner which will continue to support this special reporting requirement.

(4) In Fiscal Year 2002, the Federal Procurement Data System began to collect Affirmative Procurement Program data. Instructions for entering this data are included at Attachment 4.

(5) FAR 23.705 requires that all contracts for operation of a Government facility contain the clause at 52.223-10 entitled "Waste Reduction Program." Contracts for operation of a DOE facility must also contain the clause at 970.5223-2 which provides for the contractor's participation in the DOE Affirmative Procurement Program.

(6) Prime support service contracts awarded for performance at a Government-owned site should contain the clause at FAR 52.223-10. They should also contain the clause at DEAR 970.5223-2 if the purpose of the contract includes the procurement of any of the items designated in the EPA Comprehensive Procurement Guidelines. In such circumstances, the on-site support service contractor will participate in DOE's Affirmative Procurement Program and report such purchases. If none of these products will be procured under the contract, the clause at FAR 52.223-10 may be used alone.

(7) When acquiring items designated in the EPA Comprehensive Procurement Guidelines, that is, products with recycled content, the solicitation should specify the minimum recovered materials content contained in EPA's Recovered Materials Advisory Notice for the product. FAR 23.404 (b) provides that products that meet or exceed the EPA guidelines are to be procured unless it is impossible to acquire the item (i) competitively within a reasonable time frame, (ii) meeting appropriate performance standards, or (iii) at a reasonable price. If proposals received are unacceptable due to unreasonable price or other factors, a justification to procure the product with only virgin content will be documented and approved by the Green Acquisition Advocate pursuant to FAR 23.405(c). A copy of the justification should be maintained at the site and be reported in the Affirmative Procurement annual report. Written justifications for acquisitions below the micropurchase ceiling are not required. Other Affirmative Procurement requirements continue below the micropurchase ceiling.

B. Executive Order 13123, Greening the Government Through Efficient Energy Management

(1) This Executive Order replaced several earlier Executive Orders. The previous Executive Orders were:

- 12759 - Federal Energy Management;
- 12845 - Requiring Agencies to Purchase Energy Efficient Computer Equipment; and,
- 12902 - Energy Efficiency and Water Conservation at Federal Facilities.

This Executive Order calls for Federal leadership in energy and water efficiency, the use of renewable energy products, and the fostering of markets for emerging technologies. It calls for each agency to reduce its greenhouse gas emissions by 30% by 2010 relative to such emissions levels in 1990. It establishes energy efficiency improvement goals for each agency. The goals are 30% by 2005 and 35% by 2010 relative to 1985. It calls for expanded use of renewable energy in Federal facilities. It also calls for reduced use of petroleum products through the use of renewable energy sources and alternate fuel sources. Reference DOE O 430.2A, Departmental Energy and Utilities Management.

(2) A final rule was published in December 2001 to implement the requirements of this Executive Order. The FAR changes became effective in February 2002. There are two contracting initiatives discussed in this Executive Order and the FAR amendment. The first is energy and water efficient products and the second is Energy Savings Performance Contracts.

(3) FAR 23.203 requires that agencies, when acquiring energy using products, acquire either ENERGY STAR® labeled products or, if ENERGY STAR® labeled products are unavailable, acquire products in the upper 25% of energy efficiency as designated by the Federal Energy Management Program. The ENERGY STAR® Program is a joint program managed by EPA and DOE. The Program works with industry to promote energy conservation. Products meeting certain criteria are allowed to use the ENERGY STAR® trade mark label. The ENERGY STAR® Home Page, http://energystar.gov/, contains a list of products and manufacturers.

(4) The Federal Energy Management Program is a DOE Program focusing on the Federal government's energy and water consumption. They have developed a series of product efficiency recommendations for energy using and water using products. The energy and water using products for which efficiency designations are maintained may be reviewed at http://www.eren.doe.gov/femp/procurement/. Also see, DOE O 430.2A, Departmental Energy and Utilities Management. When contracting for the design, construction, and maintenance of Federal facilities, contractors should be made aware of and specify these requirements regarding energy using equipment.

Contracting activities should use the FAR, this Acquisition Letter, and the Internet information sites as their guidance for purchasing energy using products.

(5) The second contracting initiative in this Executive Order involves Energy Savings Performance Contracts. Energy Savings Performance Contracts (ESPCs) allow Federal agencies to improve energy efficiency in their facilities at no direct capital cost. Private sector energy service companies (ESCOs) finance the capital cost and install the retrofits. The ESCOs are paid a fixed price out of the energy savings generated by the energy conservation measure. These contracts are competitively awarded at fixed prices and may have performance periods of up to 25 years. FAR 23.204 provides summary level coverage of ESPCs but guides the reader to the DOE regulations at 10 CFR 436, Subpart B, for detailed guidance.

(6) Several Regional Super ESPCs and technology specific ESPCs have been awarded competitively. These multiple award contracts permit the energy service contractor to identify projects. These ordering agreements are available for the use of all DOE contracting activities as well as other Government agencies. The U.S. Army Corps of Engineers, Huntsville, Alabama District, also has awarded ordering agreements which may be used by DOE contracting activities or other Federal agencies. If a DOE contracting activity does not wish to use these ordering agreements, the Federal Energy Management Program has also prequalified numerous ESCOs that are eligible to compete for ESPCs. The Home Page for these and other energy efficiency funding alternatives may be found at http://www.eren.doe.gov/femp/financealt.html.

(7) The Green Acquisition Advocate should assist facility and procurement personnel in their consideration of possible ESPC opportunities. Contracting activities shall use 10 CFR 436, Subpart B, the FAR, this Acquisition Letter and the Internet information site as their guidance. **Note:** Old copies of 10 CFR 436.30 will contain an out of date reference to an ESPC sunset. The sunset date for use of the ESPC authority has been extended to September 30, 2003.

C. Executive Order 13148, Greening the Government Through Leadership in Environmental Management

This Executive Order carries forward a number of requirements from earlier Executive Orders. The previous Orders were:

- 12088 - Federal Compliance with Pollution Control Standards (only Section 1-4 on Pollution Prevention was replaced);
- 12843 - Procurement Requirements and Policies for Federal Acquisition of Ozone-Depleting Substances;
- 12856 - Federal Compliance with Right to Know Laws and Pollution Prevention Requirements; and,
- 12969 - Federal Acquisition and Community Right to Know.

The primary new requirements are for agencies to institute Environmental Management Systems, conduct facility environmental compliance audits and or Environmental Management System audits, and establish new goals for reductions in waste generation and toxic chemical releases. The first two are at Sections 401 and 402 of the Order. At DOE, the Environmental Management System will be implemented in conjunction with the existing Integrated Safety Management System and will be implemented through revisions to the DOE Directives. *(See DOE P 450.4, Safety Management System Policy, DOE N 450.4, Assignment of Responsibilities for E.O. 13148, and DOE G 450.4-1B, Integrated Safety Management System Guide.)* The existing FAR coverage based on the earlier Executive Orders will remain in place until appropriate amendments have been made to the FAR.

(5) Sections 501 through 503 of the Executive Order deal with toxic release inventory, reductions of releases and uses, and reporting. These requirements are already in the FAR. Amendments are in process to update the Executive Order number and regulatory citations found in the current FAR coverage and add a new Subpart 23.11, Environmental Management Systems and Facility Compliance Audits and 2 new clauses. When issued, the new Subpart and clauses will be implemented in conjunction with the existing DOE Integrated Safety Management System. Currently, FAR 23.9 requires a solicitation provision and contract clause in competitive contracts over $100,000. The solicitation provision is FAR 52.223-13 Certification of Toxic Chemical Release Reporting. This certification indicates that the offeror has filed its annual toxic chemical release inventory report or is not required to report for one of the reasons listed in the certificate. A contractor is, generally not required to report if it has fewer than 10 employees, it is not classified in North American Industry Classification System sectors 31 – 33, because it manufactures, processes, or otherwise uses less than the threshold quantities, or because it is located outside the United States, including U.S. territories and possessions. If the certification indicates that the Contractor is required to report, then the clause at FAR 52.223-14, Toxic Chemical Release Reporting, is required. The clause requires submission of the annual report, if applicable, throughout the contract term. In the case of a contractor operating a Federal facility, the Federal agency is responsible for reporting and the contractor assists by providing necessary information as described in paragraphs (4) and (5) below.

(1) Section 504 of the Executive Order, and its predecessor E.O. 12856, require Federal agencies to comply with the Emergency Planning and Community Right to Know Act and the Pollution Prevention Act. The Emergency Planning and Community Right-to-Know Act was passed in response to concerns regarding the environmental and safety hazards posed by the storage and handling of toxic chemicals at certain facilities in the United states. The Executive Order applies these requirements to Federal facilities.

(2) FAR 23.1005 requires every contract which involves performance at a Federal facility to contain the clause at FAR 52.223-5, Pollution Prevention and Community Right to Know.

FAR 52.223-5 requires the contractor to provide information necessary to allow the agency to comply with the Emergency Planning and Community Right to Know Act and the Pollution Prevention Act including emergency notices, material safety data sheets, hazardous chemical inventory forms, toxic chemical release inventory reports and pollution prevention goals of the agency.

(3) Section 505 of the Executive Order deals with ozone-depleting substances. Ozone-depleting substances are identified by EPA in 40 CFR 82. They include chlorofluorocarbons, halons, carbon tetrachloride, methyl chloroform, and hydrochlorofluorocarbons. Their use is being reduced and they are being phased out as Industry is developing alternative products. Some products, such as halon used in aircraft fire suppression, do not yet have alternative products for the application. Section 505(c) precludes any disposal of excess ozone-depleting substances without prior coordination with the Department of Defense which may have a mission critical requirement for the material. If so, the materials must be transferred to the Department of Defense at their expense. This requirement is described in greater detail in the EH guidance document entitled *A Plan and Guidance to Implement EO 13148 Requirements to Achieve Ozone-Depleting Substance Reductions* (available at

http://www.eh.doe.gov/oepa/guidance/ozone/odseoguide.pdf.

FAR 23.803 provides that agencies are to implement cost-effective programs to minimize the procurement of materials and substances that contribute to the depletion of stratospheric ozone; and to give preference to the procurement of alternative chemicals, products, and manufacturing processes that reduce overall risks to human health and the environment by lessening the depletion of ozone in the upper atmosphere. FAR further provides that, in preparing specifications and purchase descriptions, and in the acquisition of supplies and services, agencies shall ensure that acquisitions:

(1) Comply with the requirements of Title VI of the Clean Air Act, Executive Order 12843 (superceded by E.O. 13148), and 40 CFR 82.84(a)(2), (3), (4), and (5); and
(2) Substitute safe alternatives to ozone-depleting substances, as identified under 42 U.S.C. 7671k, to the maximum extent practicable, as provided in 40 CFR 82.84(a)(1), except in the case of Class I substances being used for specified essential uses, as identified under 40 CFR 82.4.

FAR 23.804 requires the use of the following clauses in appropriate circumstances. FAR 52.223-11 Ozone-Depleting Substance is to be used in contracts for the acquisition of ozone-depleting substances or for supplies which may contain or be manufactured with ozone-depleting substances. The clause requires manufacturers to label equipment containing ozone-depleting substances. FAR 52.223-12 Refrigeration Equipment and Air Conditioners is to be used in

contracts for maintenance, repair or disposal of equipment or appliances containing ODSs such as refrigerators, chillers, air conditioners, or motor vehicles. This alerts service providers to the Clean Air Act prohibition on the release of ODSs into the atmosphere.

D. Executive Order 13149, Greening The Government Through Federal Fleet and Transportation Efficiency

(1) This Executive Order replaces Executive Order 13031, Federal Alternative Fueled Vehicle Leadership. This Executive Order is intended to reduce Federal vehicular petroleum consumption through increased fuel efficiency in conventional vehicles and by increased use of alternate fuel vehicles and alternate fuels. No FAR amendment is planned for this Executive Order as its provisions are already included under the Affirmative Procurement Program coverage.

(2) Part 2 of this Executive Order establishes a 20% goal for reducing annual vehicular petroleum usage by the end of FY2005 compared to FY1999. It also requires the development of compliance strategies for attaining the goal. Most significantly, it calls for the continued acquisition of alternative fuel vehicles as required by the Energy Policy Act of 1992, and the use of alternative fuels in those vehicles a majority of the time that the vehicles are in operation. Additionally, agencies are required by this Executive Order to increase the fuel efficiency of new light-duty vehicle acquisitions by 3 miles per gallon by FY2005.

(3) Section 403 of this Executive Order prohibits the acquisition of virgin petroleum motor vehicle lubricating oils and requires the acquisition of environmentally preferable motor vehicle products. Environmentally preferable motor vehicle products are defined as those motor vehicles products designated by the Environmental Protection Agency in the Comprehensive Procurement Guidelines pursuant to 40 CFR 247. At this time, those products are re-refined oil, retread tires (generally truck size), and recycled engine coolants. These products are part of the Affirmative Procurement Program described at FAR 23.4. Exceptions are allowed if recovered content products are not available:

1. Competitively within a reasonable time frame;
2. Meeting appropriate performance standards; or,
3. At a reasonable price.

(4) Section 505 of this Executive Order provides that all Government-owned contractor-operated vehicles comply with all applicable goals and other requirements of this order and that these goals and requirements are incorporated into each contractor's management contract. A rulemaking is in process to add a clause to the DEAR to formalize this requirement. Information regarding this Executive Order is available at http://www.ott.doe.gov/epact/federal_fleets.html

E. Executive Order 13221, Energy Efficient Standby Power Devices

This Executive Order concerns Federal acquisition of commercial, off-the-shelf, products that have standby power devices. The Executive Order requires that Federal agencies acquire models of such products which consume no more than one watt of power while in their standby power consuming mode. If such products are unavailable, agencies are to purchase products with the lowest standby power wattage, while in their standby power consuming mode. Agencies are to adhere to these requirements when life-cycle cost-effective and practicable and where the relevant product's utility and performance are not compromised as a result. A FAR amendment is in process to formalize this requirement. Information is available at http://www.eren.doe.gov/femp/procurement/

II. Who Is Responsible For Implementing the Executive Orders?

A. Section 301 (d) of Executive Order 13101 requires the Head of each major procuring agency to designate an Agency Environmental Executive. The Agency Environmental Executive has the following duties:

- ✓ coordinating all environmental programs relating to waste prevention, recycling, and, acquisition;
- ✓ translating the Federal Strategic Plan for Executive Order 13101 into a specific implementation plan for the Department; and,
- ✓ evaluating the Department's programs and acquisitions to ensure compliance with the Order.

B. In addition to the above duties, the DOE Environmental Executive monitors and reports to the Federal Environmental Executive and the Director of the Office of Federal Procurement Policy regarding DOE's progress in the purchase of EPA designated items with recovered content.

C. The Federal Energy Management Program, EE-90, has lead responsibility for energy efficiency and Energy Savings Performance Contracts. The Office of Environmental Policy and Assistance, EH-41, has lead responsibility for coordinating the implementation, by Departmental elements, of the Waste Prevention, Recycling and Federal Acquisition Executive Order and the Environmental Leadership Executive Order. The Office of Transportation Technologies, EE-34, has lead responsibility for the Fuel Efficiency Executive Order. While these Offices have lead responsibility, the procurement community must play a substantive role in assisting program elements to successfully accomplish these programs. To ensure that this occurs, this AL provides roles and responsibilities for the procurement community.

III. What Must the Head of the Contracting Activity Do to Implement this AL?

A. The Head of each Contracting Activity shall appoint a Green Acquisition Advocate who will:

- ✓ serve as the procurement expert on Greening the Government initiatives;
- ✓ educate the procurement staff regarding all Greening the Government initiatives; and,
- ✓ promote environmentally preferable and energy efficient products to the procurement staff and customers.

B. A list of additional responsibilities which may be performed by the Green Acquisition Advocates is provided at Attachment 1.

IV. What must the Contracting Officer Do to Implement the AL?

A. When reviewing and drafting solicitations and contracts, the Contracting Officer should ensure that the appropriate provisions and clauses are contained in their solicitations and contracts.

B. Contracting Officers should work with requirements personnel, contracting personnel and contractor personnel to be certain that all are aware of their responsibilities in this area. A Greening the Government Contracting Checklist is provided at Attachment 2.

C. Ensure that Federal Procurement Data System contractual coding, regarding products and services with recovered content (blocks 26 and 27), is entered correctly and consistent with the instructions provided by Attachment 4.

V. What Tools Are Available to Help Us?

A. There are numerous information tools available on the Internet to assist you. There is a listing of these at Attachment 3.

B. The Office of Procurement and Assistance Management maintains an *Acquisition and the Environment* Home Page at http://professionals.pr.doe.gov/ That Home Page contains training briefings for each of the Executive Orders covered by this Acquisition Letter.

ATTACHMENT 1
SAMPLE GREEN ACQUISITION ADVOCATE ACTIVITIES

- Ensure that personnel at the contracting activity are aware of products designated in the EPA Comprehensive Procurement Guidelines for procurement with recycled content, as well as the ENERGY STAR® and Federal Energy Management Program products. Ensure that personnel at the contracting activity are aware of the Environmental Leadership and Fuel Efficiency Executive Orders and the required solicitation provisions and contract clauses.

- Ensure that Purchase Card Program training includes awareness of and support for the Affirmative Procurement Program and the ENERGY STAR® and Federal Energy Management Program initiatives. Promote use of the Online Affirmative Procurement Training for Purchase Card Users module available at the *Acquisition and the Environment* Home Page.

- Support program initiatives to promote employee support of the environmental and energy efficiency initiatives through informational displays and promotional activities.

- Support program initiatives to include Affirmative Procurement Program, ENERGY STAR®, and Federal Energy Management Program, Environmental Leadership, and Alternative Fuels accomplishments in local Home Pages, Intranet sites, newsletters, et cetera.

- Support initiatives to promote participation in OFPP or other agency sponsored pilot acquisitions of environmentally preferable, including energy efficient, products.

- Promote a team approach among the component members of the local acquisition community including procurement, property, environment, program, supply, facilities, construction, etc.

- Promote consideration of a broad range of environmental factors in developing plans, drawings, work statements, specifications, or other product descriptions for use at the facility. Include such factors as elimination of virgin material requirements, use of biobased products, use of recovered materials, reuse of products, life cycle cost, recyclability, use of environmentally preferable products, waste prevention (including toxicity reduction or elimination) and ultimate disposal.

- Coordinate with the Recycling Coordinator to ensure that Affirmative Procurement Program Federal transactions under Section 6002 of the Resource Conservation and Recovery Act and Executive Order 13101 are reported in the Affirmative Procurement Program's database and that local procedures provide for purchase cardholders to report their Affirmative Procurement Program transactions pursuant to that Program's reporting requirements.

- Review justifications to acquire other than an EPA designated item because it is impossible to acquire the item

    1. Competitively within a reasonable time frame; or,
    2. Meeting appropriate performance standards; or,
    3. At a reasonable price

ATTACHMENT 2
GREENING THE GOVERNMENT CONTRACTING CHECKLIST

❑ **Executive Order 13101 Requirements**

✔ Ensure that all acquisitions of items designated in the EPA Comprehensive Procurement Guidelines have the EPA recommended content level as provided in EPA's Recovered Materials Advisory Notices (RMANs) for the items.

✔ In conjunction with requirements personnel, consider aggregating purchases of EPA designated, environmentally preferable, or energy efficient items to the extent that such action will promote economy or efficiency.

✔ Ensure that contracts for operation of a Federal facility, and support service contracts to be performed at a Federal facility, include the clause at FAR 52.223-10, Waste Reduction Program, as required by FAR 23.705.

✔ Ensure that management and operating contracts include the environmental preference clause of DEAR 970.5223-2 and that management contractor personnel are aware of the program and their responsibilities under the Affirmative Procurement Program.

✔ Ensure that Federal Procurement Data System contract coding, regarding the procurement of EPA- designated products, or services including EPA-designated products, (blocks 26 and 27), is entered correctly and consistent with the instructions provided by Attachment 4.

✔ Review procurement requests to ensure that, when acquiring items designated in the EPA Comprehensive Procurement Guidelines, recovered content requirements are specified or that a written justification is provided as required by FAR 23.404(b).

✔ When procuring paper products, comply with Section 505 of the Executive Order which mandates a minimum recycled content of 30% (this may be reduced to 20% only if the 30% content product is not reasonably available, does not meet reasonable performance requirements, or is unreasonably priced).

❑ **Executive Order 13123 and 13231 Requirements**

✔ When procuring energy using products acquire EnergyStar® products or products in the upper 25% of fuel efficiency as designated by the Federal Energy Management Program.

✔ When procuring energy using products consider whether any standby power device is involved and check for any Federal Energy Management Program designated wattage level.

✔ When procuring electricity, consider the purchase of electricity from cleaner energy sources including 1) renewable energy sources; 2) less greenhouse gas emission producing, non petroleum energy sources such as natural gas; and 3) more efficient clean coal energy technologies.

❑ **Executive Order 13148 Requirements**

✔ Ensure that the clause at FAR 52.223-11, Ozone-Depleting Substances is inserted in solicitations and contracts for ozone-depleting substances or supplies that may contain ozone-depleting substances as required by FAR 23.804(a).

✔ Ensure that the clause at FAR 52.223-12, Refrigeration Equipment and Air Conditioners, is inserted in solicitations and contracts for services when the contract includes the maintenance, repair, or disposal of any equipment or appliance using ozone-depleting substances as a refrigerant, such as air conditioners, including motor vehicles, refrigerators, chillers, or freezers as required by FAR 23.804(b).

✔ Ensure that competitive solicitations exceeding $100,000, except those for commercial items, contain the solicitation provision at FAR 52.223-13 Certification of Toxic Chemical Release Reporting as required by FAR 23.907(a). Ensure that competitive contracts exceeding $100,000 contain the clause at FAR 52.223-14, Toxic Chemical Release Reporting, if the solicitation contained the preceding solicitation provision and the contractor certified that it does report. See the instruction at FAR 23.907(b)

✔ Ensure that all management and operating contracts contain the clause at 52.223-5, Pollution Prevention and Community Right to Know Information, as required by FAR 23.1005.

❑ **Executive Order 13149 Requirements**

✔ Ensure that management and operating contracts that include motor vehicle fleet management responsibilities include <u>either</u> a special provision ensuring that the contractor will comply with the goals and requirements of Executive Order 13149 <u>or</u> the clause at DEAR 970.5223-5 [if that clause has been issued].

✔ When procuring lubricants, coolants or tires, purchase re-refined, bio-based, reclaimed or retread products when available and when performance requirements are met.

✔ When contracting for vehicular or heavy equipment maintenance, specify that re-refined, bio-based, reclaimed, or retread products will be used when practicable.

❑ **Miscellaneous Requirements**

✔ When developing acquisition plans, ensure that Greening the Government requirements are addressed.
Include such factors as elimination of virgin material requirements, use of biobased products, use of recovered materials, reuse of products, life cycle cost, recyclability, use of environmentally preferable products, water savings, waste prevention (including toxicity reduction or elimination) and ultimate disposal. Include ENERGY STAR® products or products designated in the upper 25% of energy efficiency by the Federal Energy Management Program when available. If such products have standby power features, include low standby power levels as designated by the Federal Energy Management Program.

ATTACHMENT 3
INTERNET INFORMATION RESOURCES

DOE Internet Resources

http://professionals.pr.doe.gov/ is the Office of Procurement and Assistance Management information site which includes hyperlinks to all of the sites listed here. Click on "Procurement" and "*Acquisition and the Environment.*" Several self instructional training modules are included.

http://www.doep2.org/ap/ is the page dealing with Executive Order 13101. The page contains an extensive listing of DOE and contractor personnel with recycling duties and experience which can serve as an information network tool.

http://www.energystar.gov/ is the ENERGY STAR® information site.

http://www.eren.doe.gov/femp/ is the Federal Energy Management Program information site.

http://www.eren.doe.gov/femp/procurement contains FEMP product energy efficiency information and standby power device information

http://www.eren.doe.gov/femp/financealt.html contains extensive Energy Savings Performance Contract information

http://www.eren.doe.gov/EE/transportation.html contains information on alternate fuel vehicles and alternate fuels

http://www.ott.doe.gov/epact/federal_fleets.html contains information concerning Executive Order 13149

http://tis.eh.doe.gov/oepa/ is the Home Page of the Office of Environmental Policy and Guidance

EPA Internet Resources

http://www.epa.gov/cpg/ is EPA's Comprehensive Procurement Guidelines information site. It describes EPA's designated products, their specifications, their sources of supply and other useful information.

http://www.epa.gov/opptintr/epp is an EPA training site for Environmentally Preferable Purchasing

http://www.epa.gov/epahome/lawregs.htm contains most environmental laws and regulations

Facility Management Information Sites

http://www.inel.gov/national/p2 is maintained by Idaho National Engineering and Environmental Laboratory.

http://www.pnl.gov/p2/index.stm is maintained by Pacific Northwest National Laboratory

Other Information Resources

http://www.ofee.gov/ is the Federal Environmental Executive's site - it has many hyperlinks

http://www.hnd.usace.army.mil is the Huntsville, AL office of the Army Corps of Engineers information site. They also award ordering agreements for Energy Savings Performance Contracts.

ATTACHMENT 4
CODING PROCUREMENTS INVOLVING AFFIRMATIVE PROCUREMENT PROGRAM ITEMS

Beginning in Fiscal Year 2002, the Federal Procurement Data System is collecting information regarding the acquisition of Affirmative Procurement Program Items, also known as products with recovered material content, or EPA-designated items. The information is at Blocks 26 and 27 of the IPAR form.

Question. What are Affirmative Procurement Program items?

Answer. They are products with recycled content which Federal agencies and Contractors operating Government- owned facilities are required to purchase. They are designated in the Comprehensive Procurement Guidelines, 40 CFR 247, by the Environmental Protection Agency. The Product Categories are:

Construction Products
Landscaping Products
Nonpaper Office Products
Paper Products
Parks and Recreation Products
Transportation Products
Vehicular Products
Miscellaneous Products

You may review the list and more detailed information about the products, including recommended recycled content, at the Internet address shown below. A listing of the products is also included in this attachment. The following instructions are found in the Individual Procurement Action Report Handbook.

ITEM 26 USE OF EPA DESIGNATED PRODUCTS

The Resource Conservation and Recovery Act (RCRA), Section 6002, and Executive Order 13101 require the purchase of Environmental Protection Agency (EPA) designated products with a required minimum material content as described in an agency's Affirmative Procurement Program (APP). This list of EPA-designated products is available at http://www.epa.gov/cpg. This requirement applies to all contracts that require EPA-designated products. When purchasing a product or products on this list without the required minimum recovered material content, a written justification based on exception codes B, C, or D below is required by FAR 23.405(c).

If more than one exception applies or more than one justification was completed, report the predominant exception code or the code for the highest cost EPA-designated product for which a justification was completed. Select one of the following:

CODE	DESCRIPTION
A	EPA-designated product or products were purchased and all contained the required minimum recovered material content.
B	EPA-designated product or products were purchased without the required minimum recovered material content and a justification was completed based on inability to acquire the product(s) competitively within a reasonable time pursuant to FAR 23.405(c)(1).
C	EPA-designated product or products were purchased without the required minimum recovered material content and a justification was completed based on inability to acquire the product(s) at a reasonable price pursuant to FAR 23.405(c)(2).
D	EPA-designated product or products were purchased without the required minimum recovered material content and a justification was completed based on inability to acquire the product(s) to reasonable performance standards in the specifications pursuant to FAR 23.405(c)(3).
E	No EPA-designated products were required.

ITEM 27	USE OF RECOVERED MATERIALS CLAUSES
A	Use this code if the contract contains any of these provisions or clauses, FAR52.223-4, Recovered Material Certification, FAR 52.223-9, Estimate of Recovered Material Content for EPA-Designated Products, or FAR 52.223-10, Waste Reduction Program.
B	Use this code if the contract contains none of the provisions or clauses at A above.

ATTACHMENT 5
LIST OF EPA-DESIGNATED PRODUCTS

The Detailed List of EPA Designated Products - Consult the EPA Home Page for recovered material content http://www.epa.gov/cpg/

Construction Products
- Building Insulation Products
- Carpet
- Carpet Cushion
- Cement and Concrete containing:
  - Fly Ash
  - Ground Granulated Blast
- Furnace Slag
- Consolidated/Reprocessed Latex
- Paint
- Floor Tiles
- Flowable Fill
- Laminated Paperboard
- Patio Blocks
- Railroad Grade Crossing Surfaces
- Shower and Restroom
- Dividers/Partitions
- Structural Fiberboard

Landscaping Products
- Garden and soaker hoses
- Hydraulic Mulch
- Landscaping timbers and posts (plastic lumber)
- Lawn and garden edging
- Yard Trimmings and/or Food Waste
- Compost

Non-Paper Office Products
- Binders
- Office Recycling Containers
- Office Waste Receptacles
- Plastic Clip Portfolios
- Plastic Clipboards
- Plastic Desktop Accessories
- Plastic Envelopes
- Plastic File Folders
- Plastic Presentation Folders
- Plastic Trash Bags
- Printer Ribbons
- Solid Plastic Binders
- Toner Cartridges

Paper and Paper Products
- Bristols
- Coated Printing Papers
- Commercial/Industrial Sanitary Tissue Products
- Miscellaneous Paper Products (Tray Liners)
- Newsprint
- Paperboard and Packaging Products
- Uncoated Printing and Writing Papers

Park and Recreation Products
- Park Benches and Picnic Tables Containing Recovered Aluminum, Steel, Concrete or Plastic
- Plastic Fencing
- Playground Equipment Containing Recovered Plastic, Steel, or Aluminum
- Playground Surfaces
- Running Track

Transportation Products
- Channelizers
- Delineators
- Flexible Delineators
- Parking Stops
- Traffic Barriers
- Traffic Cones

Vehicular Products

Re-refined Lubricating Oil
Reclaimed Engine Coolant
Retread Tires

Miscellaneous Products
- Awards and Plaques
- Industrial Drums
- Mats
- Pallets
- Signage
- Sorbents
- Strapping and Stretch Wrap

ATTACHMENT 6
Green Acquisition Advocates[1]

Albuquerque Operations Office	Loschke, Maria Teresa mloschke@doeal.gov[1] U.S. Department of Energy Albuquerque Operations Office Pennsylvania & H Street Kirtland Air Force Base Albuquerque, NM 87116 (505) 845-4096
Chicago Operations Office	Sienko, Frederick T. Fred.Sienko@ch.doe.gov U.S. Department of Energy Chicago Operations Office 9800 South Cass Avenue Argonne, IL 60439 (630) 252-2115
Golden Field Office	James McDermott, jim_mcdermott@nrel.gov U.S. Department of Energy Golden Field Office 1617 Cole Boulevard Golden, CO 80401 (303) 275-4732
Office of Procurement and Assistance Policy	Richard Langston, ME-61, richard.langston@pr.doe.gov U.S. Department of Energy, Headquarters Office of Procurement and Assistance Policy 1000 Independence Avenue SW Washington, D.C. 20585 (202) 586-8247 [fax 0545]

[1] DOE Contracting Activities are required to appoint Green Acquisition Advocates. Some contractor organizations have also done so and these appointments are included in this list.

Office of Headquarters Procurement Services	Michael Raizen, ME-644, michael.raizen@pr.doe.gov U.S. Department of Energy Office of Headquarters Procurement Services 1000 Independence Avenue, S.W. Washington, DC 20585 (202) 287-1512
Idaho Operations Office	Linda A. Hallum, HALLUMLA@ID.DOE.GOV U.S. Department of Energy Idaho Operations Office 850 Energy Drive Idaho Falls, ID 83401-1563 (208) 526-5545
Los Alamos National Laboratory	Eleanor Chapman, Eleanorc@lanl.gov MS J591 P.O. Box 1663 Los Alamos, NM 87545 (505) 667-4348
National Energy Technology Laboratory	Deborah Boggs, DBOGGS@NETL.DOE.GOV U.S. Department of Energy National Energy Technology Laboratory 3610 Collins Ferry Road P.O. Box 880 Morgantown, WV 26507-0880 (304) 285-4473
Nevada Operations Office	Billy Thomas, billy.thomas@srs.gov U.S. Department of Energy Nevada Operations Office 232 Energy Way North Las Vegas, NV 89030-4199 (702) 295-0578
Oak Ridge Operations Office	Price, Bobby W., PriceB@oro.doe.gov U.S. Department of Energy Oak Ridge Operations Office 200 Administration Road Oak Ridge, TN 37831 (865) 576-5103

Oakland Operations Office	Karen King, karin.king@oak.doe.gov U.S. Department of Energy Oakland Operations Office 1301 Clay Street Oakland, CA 94612-5208 (510) 637-1638
Ohio Field Office	Lisa Kosko, lisa.kosko@ohio.doe.gov U.S. Department of Energy Ohio Field Office 1 Mound Road Miamisburg, OH 45342 (937) 865-4840
Pacific Northwest National Laboratory	Sandra Cannon, PNL, sandra.cannon@pnl.gov 803 Valencia Walla Walla, WA 99362 (509) 529-1535
Office of River Protection	Michael K. Barrett, Michael_K_Barrett@rl.gov 825 Jadwin Avenue P.O. Box 550 Richland, WA 99352 (509) 373-4143 Fax:(509-373-9140)
Pantex - BWXT	Brooks Baldwin, bbaldwin@pantex.com P.O. Box 30020 Bldg. T9059 Amarillo, TX 79120 (806) 477-3854
Pittsburgh Naval Reactors Office	Anthony J. Denapoli, denapoli@bettis.gov U.S. Department of Energy Pittsburgh Naval Reactors Office 814 Pittsburgh McKeesport Blvd. West Mifflin, PA 15122-0109 (412) 476-7274

Richland Operations Office	Jenise Connerly, Jenise_C_Connerly@rl.gov U.S. Department of Energy Richland Operations Office 825 Jadwin Avenue P.O. Box 550 Richland, WA 99352 (509) 376-8362
Sandia National Laboratory	Stacey Richardson, Arichar@sandia.gov Sandia National Laboratory MS 1050 Bldg T-71 Rm 5 P.O. Box 5800 Albuquerque, NM 87185-1035 (505) 284-3983
Savannah River Operations Office	David W. Hepner, david.hepner@srs.gov U.S. Department of Energy Savannah River Operations Office Road 1 Aiken, SC 29801 (803) 725-1206
Southwestern Power Administration	Gary Bridges, gbridges@swpa.gov U.S. Department of Energy Southwestern Power Administration 1 West 3rd Street Williams Center Tower 1, Suite 1600 Tulsa, OK 74103 (918) 595-6671
Stanford Linear Accelerator Center	Pamela D. Wright-Brunache, pdwb@SLAC.Stanford.EDU Stanford Linear Accelerator Center 2575 Sand Hill Rd. Menlo Park, CA 94025 Phone 650 926-2440

Strategic Petroleum Reserve Project Office	Joyce Francois, joyce.francois@spr.doe.gov Strategic Petroleum Reserve Project Office 900 Commerce Road East New Orleans, LA 70123 Phone: (504)734-4760
Thomas Jefferson National Accelerator Facility	Dennis Dobbins, dobbins@jlab.org Thomas Jefferson National Accelerator Facility 12000 Jefferson Avenue Newport News, VA 23606 (757) 269-5139
Western Area Power Administration	Frank Armstrong, armstrng@wapa.gov Western Area Power Administration Corporate Services Office - A1500 P.O. Box 281213 Lakewood, Colorado 80228-8213 (720) 962-7163 voice
Yucca Mountain Site Characterization Office	Kathleen Clemensen, Kathleen_Clemensen@ymp.gov U.S. Department of Energy Yucca Mountain Site Characterization Office M/S 523 1551 Hillshire Drive, Suite A Las Vegas, NV 89134 (702) 794-5483