

SAMPLE CONTRACT LANGUAGE FOR CONSTRUCTION USING ENERGY-EFFICIENT PRODUCTS

Section C – Performance Work Statement/Descriptions, Specifications

The Contractor shall comply with Sections 524 and Sections 525 of the Energy Independence and Security Act of 2007; Section 104 of the Energy Policy Act of 2005; Executive Order 13514, “Federal Leadership in Environmental, Energy, and Economic Performance,” dated October 5, 2009; Executive Order 13423, “Strengthening Federal Environmental, Energy, and Transportation Management,” dated January 24, 2007; and the Federal Acquisition Regulation (FAR) to provide ENERGY STAR® qualified and FEMP designated products in performance of construction.

The Contractor shall ensure that construction is performed with products that meet and/or exceed ENERGY STAR qualified and FEMP designated guidelines. The Contractor shall provide products that earn the ENERGY STAR label and meet the ENERGY STAR specifications for energy efficiency.

The Contractor shall utilize ENERGY STAR qualified products as specified at www.energystar.gov/products for complete product specifications and updated lists of qualifying products. The Contractor shall utilize the purchasing specifications specified for FEMP designated products at www.femp.energy.gov/procurement.

The Contractor shall use these products to the maximum extent possible without jeopardizing the intended end use or detracting from the overall quality delivered to the end user.

The following is a list of construction products for which ENERGY STAR qualified and FEMP designated products are available. It is not all inclusive and is evolving.

- Air Conditioners
- Ballasts
- Boilers
- Chillers
- Doors
- Electric Motors
- Furnaces
- Heat Pumps
- Lamps
- Lighting Controls
- Luminaries
- Plumbing (faucets, showerheads)
- Roofs
- Seals and Insulate
- Windows

The Agency believes that a demonstration of how to use ENERGY STAR qualified and FEMP designated products, creation of an effective training program for the products selected, and technical assistance are central to the selection and eventual success of purchasing and using ENERGY STAR qualified and FEMP designated products. The Agency will look for Contractors who will (1) demonstrate their products, and (2) when selected, offer effective training to the staff and technical assistance to trouble shoot problems.

The Contractor shall comply with the clause at FAR 52.223-15, Energy Efficiency In Energy-Consuming Products.

The Contractor shall report quarterly on the purchases of ENERGY STAR qualified and FEMP designated products in the performance of this contract. The report shall include the following:

- (1) A list of all energy consuming products purchased during the past quarter.
- (2) A list of all ENERGY STAR qualified and FEMP designated products purchased during the past quarter.
- (3) For each ENERGY STAR qualified or FEMP designated product purchased, include the savings in dollars and Btus due to the purchase of the product.
- (4) Percentage of purchased products that are ENERGY STAR qualified and FEMP designated against the total number of energy consuming products purchased.
- (5) Total value of the purchased products that are ENERGY STAR qualified and FEMP designated against the dollar value of all energy consuming products purchased.

The Contractor shall add the following service, surveillance methodology, and performance threshold to the present Performance Requirements for Construction:

- (1) Required Service - Performance Objective/Standard – Ensure the mandatory purchasing of ENERGY STAR qualified and FEMP designated products.
- (2) Surveillance Methodology/ Method of Assessment – Random Sampling.
- (3) Performance Threshold – Up to 100 compliance, assuming life cycle cost efficient.

Section H – Special Contract Requirements

H-xx. Green Purchasing under Construction Contracts
Pursuant to Executive Order 13423, “Strengthening Federal Environmental, Energy, and Transportation Management,” and Executive Order 13514, “Federal Leadership in Environmental, Energy, and Economic Performance,” the Contractor shall exert its best efforts to provide its services in a manner that will promote the natural environment and protect the health and well being of Federal employees and contract service providers. Green purchasing contracting has several interacting initiatives, which are described at the following Government or Industry Internet sites:

- Recycled products: www.epa.gov/cpg
- Biobased products: www.biopreferred.gov/
- ENERGY STAR products: www.energystar.gov/
- FEMP designated and low standby power products: www.femp.energy.gov/procurement
- EPEAT computers: www.epeat.net
- Non-Ozone Depleting Alternative Products: www.epa.gov/ozone/strathome.html
- Water-efficient plumbing products: www.epa.gov/watersense

To the extent that the construction services provided by the Contractor require provision of any of these types of products, the Contractor is expected to provide the green type of product unless that type of product is not available competitively within a reasonable time, at a reasonable price, is not life cycle cost efficient in the case of energy consuming products, or does not meet reasonable performance standards. The clauses at FAR 52.223-2, Affirmative Procurement of Biobased Products under Service and Construction Contracts, 52.223-15, Energy Efficiency in Energy Consuming Products, and 52.223-17 Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts, require the use of products that have biobased content, are energy efficient, or have recycled content.

Section I – Contract Clause

52.223-15 ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS (DEC 2007)

(a) Definition. As used in this clause--

"Energy-efficient product"--

(1) Means a product that--

(i) Meets Department of Energy and Environmental Protection Agency criteria for use of the ENERGY STAR trademark label; or

(ii) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy's Federal Energy Management Program.

(2) The term "product" does not include any energy-consuming product or system designed or procured for combat or combat-related missions (42 U.S.C. 8259b).

(b) The Contractor shall ensure that energy-consuming products are energy-efficient products (i.e., ENERGY STAR qualified products or FEMP designated products) at the time of contract award, for products that are--

(1) Delivered;

(2) Acquired by the Contractor for use in performing services at a Federally-controlled facility;

(3) Furnished by the Contractor for use by the Government; or

(4) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance.

(c) The requirements of paragraph (b) apply to the Contractor (including any subcontractor) unless--

(1) The energy-consuming product is not listed in the ENERGY STAR Program or FEMP; or

(2) Otherwise approved in writing by the Contracting Officer.

(d) Information about these products is available for--

(1) ENERGY STAR at www.energystar.gov/products; and

(2) FEMP at www.femp.energy.gov/technologies/eep_fedrequirements.html

(End of Clause)

Section L – Instructions to Offerors

In the technical proposal, the offeror shall identify the ENERGY STAR qualified and FEMP designated products to be purchased and used under this contract. The Offeror shall demonstrate that these products to be used under this contract comply with the ENERGY STAR guidelines and FEMP designated guidelines.

The Offeror shall document prior experience in specifying, purchasing, and using ENERGY STAR qualified and FEMP designated products. The Offeror shall provide a list of all relevant contracts over the past two years involving the specification, purchase, and use of ENERGY STAR qualified and FEMP designated products.

The Offeror shall document prior experience with conducting ENERGY STAR qualified and FEMP designated training for their employees or for client's employees

If Offeror is going to subcontract any work, state sub's experience in the purchasing and use of ENERGY STAR qualified and FEMP designated products.

Section M – Evaluation Factors for Award

Technical Approach/ Technical Evaluation Factor

The Government will evaluate the Offeror's technical approach for fulfilling construction work with an emphasis of the following areas:

- (1) Identification of all ENERGY STAR qualified and FEMP designated products to be used and installed in the performance of this construction contract; and
- (2) The Offeror's proposed past performance experience with the use of ENERGY STAR qualified and FEMP designated products in construction.