

**PART 426—OTHER  
SOCIOECONOMIC PROGRAMS**

**Subpart 426.70—Preference for  
Selected Biobased Products**

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AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 5909; 40 U.S.C. 486(c).

SOURCE: 63 FR 26997, May 15, 1998, unless otherwise noted.

**Subpart 426.70—Preference for  
Selected Biobased Products**

**426.7000 Scope of subpart.**

This subpart supplements the FAR to implement the set-asides and preferences described in section 1665 of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 5909).

**426.7001 Applicability.**

This subpart applies to USDA and all of its components, including corporations.

**426.7002 Authority.**

Section 1665 of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 5909) authorizes USDA to establish set-asides and other preferences for products that have been assisted by the Alternative Agricultural Research and Commercialization Corporation (AARCC).

**426.7003 Policy.**

(a) AARCC provides financial assistance to private companies and other parties to commercialize nonfood, nonfeed products made from agricultural and forestry materials and animal by-products (biobased products). Biobased products by their nature are environmentally friendly, and, in many instances, use agricultural material

that otherwise would be waste. It is the policy of USDA to acquire AARCC products to the maximum extent practicable. This policy applies to all acquisitions of products regardless of dollar value.

(b) USDA shall satisfy its requirements for products the same or essentially the same as AARCC products by applying the preferences or set-asides described by this subpart.

**426.7004 Definitions.**

As used in this subpart—

*AARCC products* are products developed with assistance provided by AARCC as authorized by 7 U.S.C. 5905.

*Acquisitions of products* means an acquisition of one or more products for the use of the Government.

*Acquisitions involving the use of products* means an acquisition in which a Government contractor uses products in contract performance.

*Price preference* means an amount, expressed as a percentage, to be used in the evaluation of offers in an acquisition of products.

*Set-aside* means a requirement that vendors responding to a solicitation offer AARCC products.

*Solicitation* includes actions taken under parts 12, 13, 14, 15, and 36 of the Federal Acquisition Regulation.

*Technical evaluation preference* means the use of an award factor or subfactor in which the Government expresses its preference for AARCC products.

**426.7005 Preference list.**

(a) The Office of Procurement and Policy Management (OPPM) and AARCC jointly shall establish and maintain a Preference List for AARCC products.

(b) The Preference List shall contain the list of preferred products, source information for these products, the type(s) of preference to be applied, the beginning and ending dates for the use of preferences, and other terms established to define the preference given to a product.

(c) The Preference List will be publicized within USDA by means of AGAR Advisories (see 401.371). Copies of the Preference List may be obtained from OPPM. The Preference List will

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also be posted on the World Wide Web at the USDA Procurement Home Page.

**426.7006 Use of a set-aside or a price preference.**

Acquisitions for products the same or essentially the same as those products appearing on the Preference List shall either be set-aside exclusively or shall include a price preference for those products shown on the Preference List. The actual price preference to be used shall be determined by the requiring office but may not exceed the percentage shown on the Preference List.

**426.7007 Use of a technical evaluation preference.**

Acquisitions involving the use of products the same or essentially the same as those products appearing on the Preference List shall include a technical evaluation preference, if authorized in the Preference List. The technical evaluation preference may be determined by the contracting officer specifically for each acquisition.

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**426.7008 Identification of preferred products.**

(a) Products subject to a set-aside or technical preference shall be separately listed in the schedule, specification, or performance work statement.

(b) Products subject to a price preference shall be separately listed in the schedule.

**426.7009 Contract provisions.**

(a) Each solicitation containing a price or technical preference under this subpart shall contain the provision 452.226-70, Preferred Products.

(b) Each solicitation for products subject to a set-aside shall include the provision 452.226-71, Set-Aside For Mandatory Products.

(c) Each solicitation for products subject to a price preference shall include the provision 452.226-72, Price Preference for Award.

(d) Solicitations for products may contain both the provision in 452.226-71 and the provision found in 452.226-72.

(e) The provisions prescribed in this section are not required for acquisitions accomplished using the purchase card as a stand alone tool.