

## Federal Acquisition Regulation

11.402

for agency paper use. Section 2(d)(ii) requires that an agency's paper products must meet or exceed the minimum content standard.

(2) Section 2(e)(iv) of Executive Order 13514 requires acquisition of uncoated printing and writing paper containing at least 30 percent postconsumer fiber.

(b) *Exceptions.* If paper under paragraphs (a)(1) or (a)(2) of this section containing at least 30 percent postconsumer fiber is not reasonably available, does not meet reasonable performance requirements, or is only available at an unreasonable price, then the agency must purchase—

(1) Printing and writing paper containing no less than 20 percent postconsumer fiber; or

(2) Paper, other than printing and writing paper, with the maximum practicable percentage of postconsumer fiber that is reasonably available at a reasonable price and that meets reasonable performance requirements.

[76 FR 31398, May 31, 2011]

### 11.304 Contract clause.

Insert the clause at 52.211-5, Material Requirements, in solicitations and contracts for supplies that are not commercial items.

## Subpart 11.4—Delivery or Performance Schedules

SOURCE: 48 FR 42159, Sept. 19, 1983, unless otherwise noted. Redesignated at 60 FR 48241, Sept. 18, 1995.

### 11.401 General.

(a) The time of delivery or performance is an essential contract element and shall be clearly stated in solicitations. Contracting officers shall ensure that delivery or performance schedules are realistic and meet the requirements of the acquisition. Schedules that are unnecessarily short or difficult to attain—

(1) Tend to restrict competition,

(2) Are inconsistent with small business policies, and

(3) May result in higher contract prices.

(b) Solicitations shall, except when clearly unnecessary, inform bidders or offerors of the basis on which their bids

or proposals will be evaluated with respect to time of delivery or performance.

(c) If timely delivery or performance is unusually important to the Government, liquidated damages clauses may be used (see subpart 11.5).

[48 FR 42159, Sept. 19, 1983. Redesignated and amended at 60 FR 48241, Sept. 18, 1995]

### 11.402 Factors to consider in establishing schedules.

(a) *Supplies or services.* When establishing a contract delivery or performance schedule, consideration shall be given to applicable factors such as the—

(1) Urgency of need;

(2) Industry practices;

(3) Market conditions;

(4) Transportation time;

(5) Production time;

(6) Capabilities of small business concerns;

(7) Administrative time for obtaining and evaluating offers and for awarding contracts;

(8) Time for contractors to comply with any conditions precedent to contract performance; and

(9) Time for the Government to perform its obligations under the contract; e.g., furnishing Government property.

(b) *Construction.* When scheduling the time for completion of a construction contract, the contracting officer shall consider applicable factors such as the—

(1) Nature and complexity of the project;

(2) Construction seasons involved;

(3) Required completion date;

(4) Availability of materials and equipment;

(5) Capacity of the contractor to perform; and

(6) Use of multiple completion dates. (In any given contract, separate completion dates may be established for separable items of work. When multiple completion dates are used, requests for extension of time must be evaluated with respect to each item, and the affected completion dates modified when appropriate.)

[48 FR 42159, Sept. 19, 1983. Redesignated and amended at 60 FR 48241, Sept. 18, 1995]