

procurement program actions in increasing the purchase and use of EPA designated products.

(e) *Purchase of EPA designated products.* USDA agencies will require that 100% of purchases of EPA-designated products contain recovered material, unless the item cannot be acquired—

(1) Competitively within a reasonable time frame;

(2) Meeting appropriate performance standards; or

(3) At a reasonable price.

(f) The 100% purchase requirement of paragraph (e) of this section applies to all USDA agency purchases, including those at or below the micro-purchase threshold.

423.405 Procedures.

(a) The threshold of purchase for EPA designated items is \$10,000 per year at the USDA departmental, not individual agency, level. Therefore, the APP requirements above, including the 100% purchase requirement, apply at the individual agency and staff office level.

(b) Contracting officers should refer to EPA's list of designated products and products identified as recycled content when purchasing supplies or services. Information on EPA designated products is available at: www.epa.gov/cpg/products.htm.

(c) All agencies and USDA Contracting Officers must take necessary actions to carry out the provisions of the USDA APP policy described in this subpart.

Subpart 423.5—Drug-Free Workplace

423.506 Suspension of payments, termination of contract, and debarment and suspension actions.

(a) The contracting officer may recommend waiver of the determination to suspend payments, to terminate a contract, or to debar or to suspend a contractor.

(b) The recommendation shall be submitted through the HCA to the SPE and shall include a full description of the disruption of USDA operations should the determination not be waived.

(c) The SPE will submit the request for a waiver to the Secretary with a recommendation for action.

Subpart 423.6—Notice of Radioactive Material

423.601 Requirements.

The HCA shall establish a system of instructions to identify the installation/facility radiation protection officer.

Subpart 423.7—Contracting for Environmentally Preferable Products and Services

423.703 Policy.

(a) USDA's Affirmative Procurement Program promotes energy-efficiency, water conservation, and the acquisition of environmentally preferable products and services. In its acquisitions, USDA will support federal "green purchasing" principles in the acquisition of products and services that are environmentally preferable or that are biobased content products and services.

(b) USDA agencies will actively promote this preference for environmentally preferable products and biobased products in contacts with vendors, in written materials, and other appropriate opportunities.

PART 424—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 424.1—Protection of Individual Privacy

Sec.

424.103 Procedures.

424.104 Contract clauses.

Subpart 424.2—Freedom of Information Act

424.203 Policy.

AUTHORITY: 5 U.S.C. 301 and 40 U.S.C. 486(c).

SOURCE: 61 FR 53646, Oct. 15, 1996, unless otherwise noted.

424.103

Subpart 424.1—Protection of Individual Privacy

424.103 Procedures.

USDA regulations implementing the Privacy Act are found in 7 CFR, subtitle A, part 1, subpart G. Contracting officers shall follow these regulations when responding to requests for information or awarding contracts that will involve the design, development, or operation of a system of records on individuals to accomplish agency functions.

424.104 Contract clauses.

When applicable, the contracting officer shall insert the clause at 452.224-70, Confidentiality of Information, in contracts involving confidential information.

Subpart 424.2—Freedom of Information Act

424.203 Policy.

USDA regulations implementing the Freedom of Information Act are found in 7 CFR, Subtitle A, Part 1, Subpart A. Contracting officers shall follow these regulations when responding to requests for information.

[70 FR 48, Jan. 3, 2005]

PART 425—FOREIGN ACQUISITION

Subpart 425.1—Buy American Act—Supplies

Sec.

425.102 [Reserved]

425.103 Exceptions.

425.104 Nonavailable articles.

425.105 Determining reasonableness of cost.

425.108 [Reserved]

Subpart 425.2—Buy American Act—Construction Materials

425.202 Exceptions.

425.203-425.204 [Reserved]

Subparts 425.3-425.4 [Reserved]

Subpart 425.6—Trade Sanctions

425.602 Exceptions.

Subpart 425.9 [Reserved]

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Subpart 425.10—Additional Foreign Acquisition Regulations

425.1001 Waiver of right to examination of records.

AUTHORITY: 5 U.S.C. 301 and 40 U.S.C. 486(c).

SOURCE: 61 FR 53646, Oct. 15, 1996, unless otherwise noted.

Subpart 425.1—Buy American Act—Supplies

SOURCE: 70 FR 48, Jan. 3, 2005, unless otherwise noted.

425.102 [Reserved]

425.103 Exceptions.

(a) The Senior Procurement Executive (SPE) shall make the determination prescribed in FAR 25.103(a).

(b) Copies of determinations of non-availability in accordance with FAR 25.103(b)(2) or 25.202(a)(2), for articles, material or supplies not listed in FAR 25.104, may be submitted to the SPE for submission to the Civilian Agency Acquisition Council (CAAC).

425.104 Nonavailable articles.

Information required by FAR 25.104(b) shall be submitted to the SPE for submission to the CAAC.

425.105 Determining reasonableness of cost.

The SPE may make the determination prescribed in FAR 25.105(a). Requests for a determination by the SPE shall be submitted by the HCA, in writing, and shall provide a detailed justification supporting why evaluation factors higher than those listed in FAR 25.102(b)(1) and (2) should be applied to determine whether the offered price of a domestic end product is unreasonable.

425.108 [Reserved]

Subpart 425.2—Buy American Act—Construction Materials

425.202 Exceptions.

(a) The SPE shall make the determination prescribed in FAR 25.202(a)(1).

(b) If a contracting officer proposes that the use of a particular domestic