

## Federal Acquisition Regulation

## 11.302

solicitation, but may be obtained from a designated source.

(d) The contracting officer shall insert a provision substantially the same as the provision at 52.211-4, Availability for Examination of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, in solicitations that cite specifications that are not listed in the Index and are available for examination at a specified location.

[60 FR 48238, Sept. 18, 1995, as amended at 63 FR 34063, June 22, 1998]

### Subpart 11.3—Acceptable Material

SOURCE: 65 FR 36018, June 6, 2000, unless otherwise noted.

#### 11.301 Definitions.

As used in this subpart—

*Postconsumer material* means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of “recovered material.” For paper and paper products, postconsumer material means “postconsumer fiber” defined by the U.S. Environmental Protection Agency (EPA) as—

(1) Paper, paperboard, and fibrous materials from retail stores, office buildings, homes, and so forth, after they have passed through their end-use as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; or

(2) All paper, paperboard, and fibrous materials that enter and are collected from municipal solid waste; but not

(3) Fiber derived from printers’ overruns, converters’ scrap, and over-issue publications.

*Recovered material* for paper and paper products, is defined by EPA in its Comprehensive Procurement Guideline as “recovered fiber” and means the following materials:

(1) Postconsumer fiber.

(2) Manufacturing wastes such as—

(i) Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and

(ii) Repulped finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others.

#### 11.302 Policy.

(a) Agencies must not require virgin material or supplies composed of or manufactured using virgin material unless compelled by law or regulation or unless virgin material is vital for safety or meeting performance requirements of the contract.

(b)(1) When acquiring other than commercial items, agencies must require offerors to identify used, reconditioned, or remanufactured supplies; or unused former Government surplus property proposed for use under the contract. These supplies or property may not be used in contract performance unless authorized by the contracting officer.

(2) When acquiring commercial items, the contracting officer must consider the customary practices in the industry for the item being acquired. The contracting officer may require offerors to provide information on used, reconditioned, or remanufactured supplies, or unused former Government surplus property proposed for use under the contract. The request for the information must be included in the solicitation, and to the maximum extent practicable must be limited to information or standards consistent with normal commercial practices.

(c) When the contracting officer needs additional information to determine whether supplies meet minimum recovered material standards stated in the solicitation, the contracting officer

may require offerors to submit additional information on the recycled content or related standards. The request for the information must be included in the solicitation. When acquiring commercial items, limit the information to the maximum extent practicable to that available under normal commercial practices.

**11.303 Special requirements for printing and writing paper.**

(a) Section 505 of Executive Order 13101, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition, establishes minimum recovered material content standards for agency purchases of printing and writing paper. Section 505 requires that 100 percent of an agency's purchases of printing and writing paper must meet or exceed one of the minimum content standards specified in paragraph (b) of this section.

(b) For high-speed copier paper, offset paper, forms bond, computer print-out paper, carbonless paper, file folders, white wove envelopes, writing and office paper, book paper, cotton fiber paper, and cover stock, the minimum content standard must be no less than 30 percent postconsumer materials. If paper containing 30 percent postconsumer material is not reasonably available, does not meet reasonable performance requirements, or is only available at an unreasonable price, then the agency must purchase paper containing no less than 20 percent postconsumer material.

**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;