

Federal Acquisition Regulation

23.504

clause at 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products.

[65 FR 36019, June 6, 2000, as amended at 68 FR 43858, July 24, 2003]

23.406 Solicitation provision and contract clause.

(a) Insert the provision at 52.223-4, Recovered Material Certification, in solicitations that are for, or specify the use of, EPA-designated products containing recovered materials.

(b) Insert the clause at 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products, in solicitations and contracts exceeding \$100,000 that include the provision at 52.223-4. If technical personnel advise that estimates can be verified, use the clause with its *Alternate I*.

[65 FR 36019, June 6, 2000, as amended at 68 FR 43858, July 24, 2003]

Subpart 23.5—Drug-Free Workplace

SOURCE: 54 FR 4968, Jan. 31, 1989; 55 FR 21707, May 25, 1990, unless otherwise noted.

23.500 Scope of subpart.

This subpart implements the Drug Free Workplace Act of 1988 (Pub. L. 100-690).

23.501 Applicability.

This subpart applies to contracts, including contracts with 8(a) contractors under FAR subpart 19.8 and modifications that require a justification and approval (see subpart 6.3), except contracts—

(a) At or below the simplified acquisition threshold; however, the requirements of this subpart apply to all contracts of any value awarded to an individual;

(b) For the acquisition of commercial items (see part 12);

(c) Performed outside the United States and its outlying areas or any part of a contract performed outside the United States and its outlying areas;

(d) By law enforcement agencies, if the head of the law enforcement agency or designee involved determines that application of this subpart would

be inappropriate in connection with the law enforcement agency's undercover operations; or

(e) Where application would be inconsistent with the international obligations of the United States or with the laws and regulations of a foreign country.

[54 FR 4968, Jan. 31, 1989, as amended at 55 FR 21707, May 25, 1990; 60 FR 34758, July 3, 1995; 60 FR 48248, Sept. 18, 1995; 68 FR 28082, May 22, 2003]

23.502 Authority.

Drug-Free Workplace Act of 1988 (Pub. L. 100-690).

23.503 Definitions.

As used in this subpart—

Controlled substance means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812), and as further defined in regulation at 21 CFR 1308.11-1308.15.

Conviction means a finding of guilt (including a plea of *nolo contendere*) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

Employee means an employee of a contractor directly engaged in the performance of work under a Government contract. *Directly engaged* is defined to include all direct cost employees and any other contract employee who has other than a minimal impact or involvement in contract performance.

Individual means an offeror/contractor that has no more than one employee including the offeror/contractor.

[54 FR 4968, Jan. 31, 1989, as amended at 55 FR 21707, May 25, 1990; 66 FR 2130, Jan. 10, 2001]

23.504 Policy.

(a) No offeror other than an individual shall be considered a responsible source (see 9.104-1(g) and 19.602-1(a)(2)(i)) for a contract that exceeds the simplified acquisition threshold,