




**TO:** Heads of Contracting Activity

**FROM:** Angela Billups, PhD  200012  
Associate Deputy Assistant Secretary for Acquisition

**SUBJECT:** Class Deviation from the Federal Acquisition Regulation (FAR) extending the Biobased Product Reporting Requirement

Effective immediately, Contracting Officers shall notify contractors operating under contracts that include the clause FAR 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts (copy attached), that:

- 1) The due date for reporting use of biobased products given in paragraph (c)(2) of the attached clause is extended from October 31, 2012 to December 31, 2012;
- 2) To use the web-based portal at <http://www.biopreferred.gov> for satisfying the reporting requirement; and
- 3) To use the reporting template under "Key Initiatives" or at <http://www.biopreferred.gov/FARReporting/FARReporting.xhtml>.

The United States Department of Agriculture is implementing this web-based portal to consolidate and facilitate government-wide reporting. As of October 31, 2012, the portal became available to contractors.

The CAAC consultation required by FAR 1.404(a)(1) for FAR class deviations is attached. This deviation remains in effect for one year unless otherwise rescinded. My point of contact is Cheryl Howe, who may be reached on 202-690-5552 or at [cheryl.howe@hhs.gov](mailto:cheryl.howe@hhs.gov).

Attachments

**23.406 Solicitation provisions and contract clauses.**

(a) Insert the provision at 52.223-1, Biobased Product Certification, in solicitations that—

(1) Require the delivery or specify the use of USDA-designated items; or

(2) Include the clause at 52.223-2.

(b) Insert the clause at 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts, in service or construction solicitations and contracts, unless the contract will not involve the use of USDA-designated items at <http://www.biopREFERRED.gov> or 7 CFR part 3201.

**52.223-2 Affirmative Procurement of Biobased Products Under Service and Construction Contracts.**

As prescribed in 23.406(b), insert the following clause:

AFFIRMATIVE PROCUREMENT OF BIOBASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS  
(JUL 2012)

(a) In the performance of this contract, the contractor shall make maximum use of biobased products that are United States Department of Agriculture (USDA)-designated items unless—

(1) The product cannot be acquired—

(i) Competitively within a time frame providing for compliance with the contract performance schedule;

(ii) Meeting contract performance requirements; or

(iii) At a reasonable price.

(2) The product is to be used in an application covered by a USDA categorical exemption (see 7 CFR 3201.3(e)). For example, all USDA-designated items are exempt from the preferred procurement requirement for the following:

(i) Spacecraft system and launch support equipment.

(ii) Military equipment, *i.e.*, a product or system designed or procured for combat or combat-related missions.

(b) Information about this requirement and these products is available at <http://www.biopREFERRED.gov>.

(c) In the performance of this contract, the Contractor shall—

(1) Report to the environmental point of contact identified in paragraph (d) of this clause, with a copy to the Contracting Officer, on the product types and dollar value of any USDA-designated biobased products purchased by the Contractor during the previous Government fiscal year, between October 1 and September 30;

(2) Submit this report no later than—

(i) October 31 of each year during contract performance; and

(ii) At the end of contract performance; and

(3) Contact the environmental point of contact to obtain the preferred submittal format, if that format is not specified in this contract.

(d) The environmental point of contact for this contract is:

\_\_\_\_\_ [Contracting Officer shall insert full name, phone number, and email address. In addition, the Contracting Officer may include the agency website for reporting.]

(End of clause)



GSA Office of Governmentwide Policy  
CIVILIAN AGENCY ACQUISITION LETTER 2013-01

October 29, 2012

MEMORANDUM FOR CIVILIAN AGENCIES OTHER THAN NASA

FROM: LAURA AULETTA /s/  
CHAIR  
CIVILIAN AGENCY ACQUISITION COUNCIL (CAAC)

SUBJECT: Class Deviation from the Federal Acquisition Regulation (FAR)  
extending the Biobased Product Reporting Requirement

The clause at FAR 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts, requires reporting of biobased products under service and construction contracts, for the previous Government fiscal year, by October 31st of each year during contract performance. The United States Department of Agriculture (USDA) is implementing a web-based portal designed to consolidate government-wide reporting. The web-based portal is scheduled to be available for contractors by October 31, 2012.

To ensure contractor use of the web-based portal for this reporting period, agencies are encouraged to issue a class deviation, in accordance with FAR 1.404, to extend the reporting deadline contained in paragraph (c)(2) of the clause at FAR 52.223-2 from October 31, 2012 to December 31, 2012. Agencies should also notify contractors of the USDA web-based portal at <http://www.biopreferted.gov> for satisfying the reporting requirements of the clause, including the reporting template under "Key Initiatives," or at <http://www.biopreferted.gov/FARReporting/FARReporting.xhtml>.

This CAAC memorandum constitutes consultation with the Chair of the CAAC required by FAR

1.404(a)(1). Agencies are reminded that FAR 1.404 requires agencies to furnish a copy of each approved class deviation to the FAR Secretariat, General Services Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers at [hada.flowers@gsa.gov](mailto:hada.flowers@gsa.gov).

If you have questions or require additional information regarding this memorandum, please contact Marissa Petrussek at (202) 501-0136 or by email at [marissa.petrusek@gsa.gov](mailto:marissa.petrusek@gsa.gov).

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