



United States
Department of
Agriculture

Office of the
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DATE: May 23, 2005

TO: Chief Acquisition Officers Council

FROM: Michael J. Harrison /s/
Chief Acquisition Officer

SUBJECT: Biobased Product Procurement Preference Program

Section 9002 of the Farm Security and Rural Investment Act (FSRIA) of 2002, Public Law 107-171, requires each Federal agency to develop “a procurement program which will assure that items composed of biobased products will be purchased to the maximum extent practicable and which is consistent with applicable provisions of Federal procurement law.” These procurement programs are to include the following:

- biobased products preference program (for designated products);
- agency promotion program to promote the preference program; and
- annual review and monitoring of effectiveness of agency plan

For a procurement preference to exist, an item must first be “designated.” The United States Department of Agriculture’s (USDA) Office of the Chief Economist manages the designation process, whereby generic groupings of products, known as “items,” will be identified through a series of rules published in the Federal Register. The final rule that established the guidelines for designating biobased products appeared in the Federal Register on January 11, 2005 and became effective February 10, 2005.

“Biobased products” are defined as in FSRIA section 9002 as “a product determined by the Secretary of Agriculture to be a commercial or industrial product (other than food or feed) that is composed, in whole or significant part, of biological products or renewable domestic agriculture materials (including plant, animal, and marine materials) or forestry materials.”

Agencies are required to buy the designated products unless they:

- are not reasonably available;
- fail to meet applicable performance standards; or
- are available only at an unreasonable price

Note that procurements subject to section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962) are not subject to the requirements of FSRIA section 9002, to the extent the requirements of the two programs are inconsistent.

In accordance with FSRIA, agencies are to have their biobased procurement programs in place by January 11, 2006. However, the designation process has proven more complex

and time consuming than originally thought. As a result, the first biobased item designations are not expected to be in place, as a final rule, until the fall of 2005.

Rob Burton has kindly added the biobased procurement preference issue to the Chief Acquisition Officers Council June 2 meeting agenda. I look forward to discussing this program further at the meeting.