



U.S. Department of Housing and Urban Development
Washington, D.C. 20410

CHIEF PROCUREMENT OFFICER

**Class Deviation from the Federal Acquisition Regulation (FAR)
Clause 52.223-2, Affirmative Procurement of Biobased Products Under Service and
Construction Contracts.**

Introduction

The purpose of the USDA BioPreferred program is to promote the increased purchase and use of biobased products. The program is expected to promote economic development, creating new jobs and providing new markets for farm commodities. To the extent that the BioPreferred program achieves its purpose, the increased purchase of biobased products will also be expected to reduce petroleum consumption, increase the use of renewable resources, better manage the carbon cycle, and may contribute to reducing adverse environmental and health impacts.

Biobased Products

Biobased products, designated by the Secretary of the Agriculture, are commercial or industrial products that are composed in whole, or in significant part, of biological products or renewable domestic agricultural materials or forestry materials.

Some examples of biobased products include:

- Adhesives
- Construction materials and composites
- Fibers, paper and packaging
- Fuel additives
- Landscaping materials, compost and fertilizer;
- Lubricants and functional fluids;
- Plastics;
- Paints and coatings;
- Solvents and cleaners;
- Sorbents; and
- Plant and vegetable inks.

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

The clause at Federal Acquisition Regulation (FAR) 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts, requires all construction and service contractors to make maximum use of biobased products that are United States Department of Agriculture (USDA)-designated items and to report biobased products used in performance of service and construction contracts, for the previous Government fiscal year, by October 31st of each year during contract performance. The clause identifies that the following exceptions exist to the requirements of Clause 52.223-2 under construction and service contracts:

- The product cannot be acquired—
 - Competitively within a time frame providing for compliance with the contract performance schedule;
 - Meeting contract performance requirements; or
 - At a reasonable price.
- 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:
 - Spacecraft system and launch support equipment.
 - Military equipment, *i.e.*, a product or system designed or procured for combat or combat-related missions.

HUD Class Deviation to the Applicability for Use of FAR Clause 52.223-2

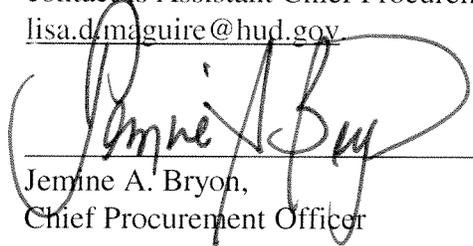
It is the determination of the Chief Procurement Officer that HUD contracts for services other than those listed below are exempt from the applicability for use of FAR Clause 52.223-2. However, contracts whereby any portion of performance involves the identified services below, shall contain the requirements contained within FAR 52.223-2.

- Building cleaning services, interior
- Building cleaning services, janitorial
- Custodial services
- Housekeeping services (i.e., cleaning services)
- Janitorial services
- Office cleaning services
- Residential cleaning services
- Window cleaning services
- Fertilizing lawns
- Garden maintenance services
- Hydroseeding services (e.g., decorative, erosion control purposes)
- Landscape care and maintenance services
- Landscape installation services

- Lawn care services (e.g., fertilizing, mowing, seeding, spraying)
- Lawn fertilizing services
- Lawn maintenance services
- Lawn mowing services
- Lawn seeding services
- Lawn care supplies (e.g., chemicals, fertilizers, pesticides) merchant wholesalers
- House painting
- Paint and wallpaper stripping
- Painting (except roof) contractors
- Painting and wallpapering.

The Chair of the Civilian Agency Acquisition Council has been consulted as required by FAR 1.404(a)(1). A copy of this approved deviation will be provided to the FAR Secretariat, General Services Administration, Regulatory Secretariat (MVCB), Attn: Hada Flowers at hada.flowers@gsa.gov.

This deviation shall be in effect from the date of issuance until rescinded. The point of contact is Assistant Chief Procurement Officer Lisa Maguire at 202-402-3484 or lisa.d.maguire@hud.gov



Jemine A. Bryon,
Chief Procurement Officer

Jan. 17, 2013
Date