



February 21, 2012

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Driving Innovation and Creating Jobs in Rural America through Biobased and Sustainable Product Procurement

The BioPreferred program -- established by the Farm Security and Rural Investment Act of 2002 (Public Law 107-171) (2002 Farm Bill), and strengthened by the Food, Conservation and Energy Act of 2008 (Public Law 110-234) (2008 Farm Bill) -- is intended to increase Federal procurement of biobased products to promote rural economic development, create new jobs, and provide new markets for farm commodities. Biobased and sustainable products help to increase our energy security and independence.

The Federal Government, with leadership from the Department of Agriculture (USDA), has made significant strides in implementing the BioPreferred program. It is one of the key elements in my efforts to promote sustainable acquisition throughout the Government under Executive Order 13514 of October 5, 2009 (Federal Leadership in Environmental, Energy, and Economic Performance). Further efforts will drive innovation and economic growth and create jobs at marginal cost to the American public.

The goal of this memorandum is to ensure that executive departments and agencies (agencies) effectively execute Federal procurement requirements for biobased products, including those requirements identified in Executive Order 13514 and prescribed in the 2002 Farm Bill, as amended by the 2008 Farm Bill. It is vital that these efforts are in accord and carefully coordinated with other Federal procurement requirements.

Therefore, I direct that agencies take the following steps to significantly increase Federal procurement of biobased and other sustainable products.

Section 1. Actions Related to Executive Order 13514. (a) Agencies shall include and report on biobased acquisition as part of the sustainable acquisition goals and milestones in the Strategic Sustainability Performance Plan required by section 8 of Executive Order 13514.

(b) As required by section 2(h) of Executive Order 13514, agencies shall ensure that 95 percent of applicable new contract actions for products and services advance sustainable acquisition, including biobased acquisition, where such products and services meet agency performance requirements. In doing so, agencies shall:

(i) include acquisition of biobased products in their Affirmative Procurement Programs and Preferable Purchasing Programs, as applicable (as originally required by Executive Order 13101 of September 14, 1998 (Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition) and reinforced by Executive Order 13423 of January 24, 2007 (Strengthening Federal Environmental, Energy, and Transportation Management) and Executive Order 13514);

(ii) include biobased products as part of their procurement review and monitoring program required by section 9002(a) of the 2008 Farm Bill, incorporating data collection and reporting requirements as part of their program evaluation; and

(iii) provide appropriate training on procurement of biobased products for all acquisition personnel including requirements and procurement staff.

(c) The Office of Management and Budget (OMB) shall emphasize biobased purchasing in the fiscal year 2012 and 2013 Sustainability/Energy scorecard, which is the periodic evaluation of agency performance on sustainable acquisition pursuant to section 4 of Executive Order 13514.

Sec. 2. Biobased Product Designations. The USDA has already designated 64 categories of biobased products for preferred Federal procurement. Although these categories represent an estimated 9,000 individual products, less than half of the known biobased products are currently included in the preference program. Increasing the number of products subject to the Federal procurement preference will increase procurement of biobased products. Therefore, I direct the Secretary of Agriculture to:

(a) increase both the number of categories of biobased products designated and individual products eligible for preferred purchasing by 50 percent within 1 year of the date of this memorandum; and

(b) establish a web-based process whereby biobased product manufacturers can request USDA to establish a new product category for designation. The USDA shall determine the merit of the request and, if the product category is deemed eligible, propose designation within 180 days of the request.

Sec. 3. Changes in Procurement Mechanisms. Several actions can be taken to facilitate improvement in and compliance with the requirements to purchase biobased products. To achieve these changes, I direct:

(a) the Senior Sustainability Officers and Chief Acquisition Officers of all agencies to randomly sample procurement actions (such as solicitations and awards) to verify that biobased considerations are included as appropriate. Agencies shall include results of these sampling efforts in the Sustainability/Energy scorecard reported to OMB;

(b) the Secretary of Agriculture to work with relevant officials in agencies that have electronic product procurement catalogs to identify and implement solutions to increase the visibility of biobased and other sustainable products;

(c) the Senior Sustainability Officers of all agencies that have established agency-specific product specifications, in coordination with any other appropriate officials, to review and revise all specifications under their control to assure that, wherever possible and appropriate, such specifications require the use of sustainable products, including USDA-designated biobased products, and that any language prohibiting the use of biobased products is removed. The review shall be on a 4-year cycle. Significant review should be completed within 1 year of the date of this memorandum, and the results of the reviews shall be annually reported to OMB and the Office of Science and Technology Policy (OSTP); and

(d) the Secretary of Agriculture to amend USDA's automated contract writing system, the Integrated Acquisition System, to serve as a model for biobased product procurement throughout the Federal Government by adding elements related to acquisition planning, evaluation factors for source selection, and specifications and requirements. Once completed, USDA shall

share the model with all agencies and, as appropriate, assist any agency efforts to adopt similar mechanisms.

Sec. 4. Small Business Assistance. A majority of the biobased product manufacturers and vendors selling biobased products and services that use biobased products to the Federal Government are small businesses. To improve the ability of small businesses to sell these products and services to the Federal Government, I direct:

(a) the Secretary of Commerce, in consultation with the Secretary of Agriculture, to use relevant programs of the Department, such as the Manufacturing Extension Partnership network, to improve the performance and competitiveness of biobased product manufacturers;

(b) the Secretary of Agriculture to work cooperatively with Procurement Technical Assistance Center programs located across the Nation to provide training and assistance to biobased product companies to make these companies aware of the BioPreferred program and opportunities to sell biobased products to Federal, State, and local government agencies; and

(c) the Secretary of Agriculture to develop training within 6 months of the date of this memorandum for small businesses on the BioPreferred program and the opportunities it presents, and the Administrator of the Small Business Administration (SBA) to disseminate that training to Small Business Development Centers and feature it on the SBA website.

Sec. 5. Reporting. The Federal Government should obtain the most reliable information to gauge its progress in purchasing biobased products, including measuring the annual number of procurements that include direct purchase of biobased products, the annual number of construction and service contracts that include the purchase of biobased products, and the annual volume and type of biobased products the Federal Government purchases. I direct that:

(a) within 1 year of the date of this memorandum, the Federal Acquisition Regulatory Council shall propose an amendment to the Federal Acquisition Regulation to require reporting of biobased product purchases, to be made public on an annual basis; and

(b) following the promulgation of the proposed amendment referenced in subsection (a) of this section, the Secretary of Agriculture, in consultation with the Chief Acquisition Officers

Council, shall develop a reporting template to facilitate the annual reporting requirement.

Sec. 6. Jobs Creation Research. Biobased products are creating jobs across America. These innovative products are creating new markets for agriculture and expanding opportunities in rural America. Therefore, I direct the Secretary of Agriculture to prepare a report on job creation and the economic impact associated with the biobased product industry to be submitted to the President through the Domestic Policy Council and OSTP within 2 years of the date of this memorandum. The study shall include:

- (a) the number of American jobs originating from the biobased product industry annually over the last 10 years, including the job changes in specific sectors;
- (b) the dollar value of the current domestic biobased products industry, including intermediates, feedstocks, and finished products, but excluding biofuels;
- (c) a forecast for biobased job creation potential over the next 10 years;
- (d) a forecast for growth in the biobased industry over the next 10 years; and
- (e) jobs data for both biofuels and biobased products, but shall generate separate data for each category.

Sec. 7. Education and Outreach. In compliance with the 2002 Farm Bill, several agencies established agency promotion programs to support the biobased products procurement preference. The Federal Acquisition Institute has added biobased procurement training to its course offerings. To assure both formal and informal educational and outreach instruction on the BioPreferred program are in place and being implemented by each agency, I direct:

- (a) the Secretary of Agriculture to update all existing USDA BioPreferred and related sustainable acquisition training materials within 1 year of the date of this memorandum;
- (b) the Senior Sustainability Officers and Chief Acquisition Officers of agencies to work cooperatively with the Secretary of Agriculture to immediately implement such BioPreferred program agency education and outreach programs as

are necessary to meet the requirements of this memorandum and relevant statutes; and

(c) the Secretary of Agriculture to work actively with the Committee for Purchase From People Who Are Blind or Severely Disabled to promote education and outreach to program, technical, and contracting personnel, and to purchase card holders on BioPreferred AbilityOne products.

Sec. 8. General Provisions. (a) This memorandum shall apply to an agency with respect to the activities, personnel, resources, and facilities of the agency that are located within the United States. The head of an agency may provide that this memorandum shall apply in whole or in part with respect to the activities, personnel, resources, and facilities of the agency that are not located within the United States, if the head of the agency determines that such application is in the interest of the United States.

(b) The head of an agency shall manage activities, personnel, resources, and facilities of the agency that are not located within the United States, and with respect to which the head of the agency has not made a determination under subsection (a) of this section, in a manner consistent with the policies set forth in this memorandum, to the extent the head of the agency determines practicable.

(c) For purposes of this memorandum, "biobased product" shall have the meaning set forth in section 8101(4) of title 7, United States Code.

(d) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(e) The Secretary of Agriculture is hereby authorized and directed to publish this memorandum in the *Federal Register*.

[FR Doc. 2012-04468 Filed 02/23/2012 at 8:45 am; Publication Date: 02/24/2012]