**Statewide Policy: 107-11-140**

**Sustainable Procurement – DRAFT 4**

July 26, 2021

# Purpose

This policy provides direction to agencies to:

* Recognize the state of Oregon’s responsibility to minimize negative impacts on human health, climate change and the environment while supporting a diverse, equitable and vibrant community and economy in the procurement of goods and services.
* Apply life-cycle and total cost of ownership thinking to procurement decisions to incorporate both short- and long-term costs and benefits, reduce risk, and practice fiscal responsibility.
* Lead ORCPP members by example and support supplier innovation for sustainability in the marketplace.

# Authority:

ORS 184.340; ORS 184.421-435; ORS 279A.125-155; ORS 279B.025; ORS 279B.240-280; ORS 283.398; ORS 468A.205; ORS 468A.266; ORS 469.233

EO 12-03; EO 12-05; EO 17-20; EO 17-21; EO 20-04

OAR 125-246-0110; OAR 125-246-0120; OAR 125-246-0322; OAR 125-247-0165; OAR 125-247-0170; OAR 125-247-0500; OAR 340-253-0100; OAR 330-092-0020

# Applicability

This policy applies to all state agencies, boards and commissions within the Executive Branch, as defined by ORS 174.112. State agencies, cities, counties, and other public entities outside the Executive Branch are encouraged to develop, implement, and participate in accordance with this policy and related procedure as appropriate and to the extent allowable by law.

The policy is intended to function in addition to other existing legal responsibilities related to the procurements of state agencies, boards or commissions.

# Instructions

Refer to DAS Statewide Procedure 107-011-0140\_PR: [insert hyperlink].

# Definitions

All capitalized terms in this policy are defined in OAR 125-246-0110. Capitalized terms not defined in the aforementioned OAR, are defined as set forth below.

**AGENCY:** Those agencies of the State of Oregon that are subject to the procurement authority of the Director of the Department according to [ORS 279A.050 (Procurement authority)](https://oregon.public.law/statutes/ors_279A.050) and [279A.140 (State procurement of goods and services)](https://oregon.public.law/statutes/ors_279A.140). This term includes the Department when the Department is engaged in Public Contracting. Under these Rules, an Agency is authorized only through a delegation of authority according to [OAR 125-246-0170 (Delegation of Authority)](https://oregon.public.law/rules/oar_125-246-0170).

**Certification Office for Business Inclusion and Diversity (COBID)**: The office that administers the certification process for the Disadvantaged Business Enterprise (DBE), Minority-owned Business Enterprise (MBE), Woman-owned Business Enterprise (WBE), Service Disabled Veteran-owned Business (SDV), and Emerging Small Business (ESB) Programs. Certification Office for Business Inclusion and Diversity (COBID), formerly OMWESB, is the sole authority providing certification in Oregon for disadvantaged, minority-owned, woman-owned, service disabled veteran owned, and emerging small businesses.

**DEQ:** Oregon Department of Environmental Quality.

**Ecologo:** Multi-attribute, life-cycle-based sustainability standard developed by the company UL.

**Embodied Carbon:** The greenhouse gas (GHG) emissions arising from the manufacturing, transportation, installation, maintenance, and disposal of building materials.

**Environmentally Preferable Products:** products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose.

**ENERGY STAR:** a program run by the U.S. Environmental Protection Agency and U.S. Department of Energy that promotes energy efficiency. The program provides information on the energy consumption of products and devices using different standardized methods.

**Environmental Product Declaration (EPD):** Quantifies the environmental impacts of a product, such as global warming potential, smog creation, ozone depletion and water pollution, in a single, comprehensive report. At a minimum, EPDs include raw material extraction, raw material transportation, and product manufacturing (aka – cradle to gate). For some materials, EPDs include the impacts from other life cycle phases as well.

**Electronic Product Environmental Assessment Tool (EPEAT):** A sustainability certification for electronics that evaluates devices based on their environmental performance. Products are ranked as Gold, Silver or Bronze based on compliance to a set of environmental performance criteria.

**Greenhouse Gases:** a gas that absorbs and emits radiant energy within the thermal infrared range, causing the greenhouse effect. The primary greenhouse gases in Earth's atmosphere are carbon dioxide, methane, nitrous oxide, and fluorinated gases: chlorofluorocarbons (CFCs), hydrofluorocarbons (HFCs) and perfluorocarbons (PFCs), as well as sulfur hexafluoride (SF6).

**Life Cycle Analysis:** A methodology for assessing environmental impacts associated with all the stages of the life cycle of a product, process, or service

**Life Cycle Cost:** The total cost over the life of an asset. The term, also called lifetime cost or "cradle to grave" costs includes total cost of ownership (see below) plus externalities, such as environmental impact costs.

**Low Carbon Fuels:** alternative transportation fuels that have lower carbon intensities than conventional petroleum fuels, such as gasoline and diesel

**Oregon Cooperative Procurement Program (ORCPP):** allows qualifying agencies and organizations to purchase goods and services from state contracts.

**Oregon Buys:** web-based eProcurement system that automates the state of Oregon’s procurement process.

**Polyethylene terephthalate (PETE):** A polyester resin commonly used in consumer products such as fibers for clothing and containers for liquids and foods,

**Recycled Content:** the total percentage of recovered material in a product, including pre-consumer and postconsumer materials.

**RECYCLED MATERIAL:** Any material that would otherwise be a useless, unwanted or discarded material except for the fact that the material still has useful physical or chemical properties after serving a specific purpose and can, therefore, be reused.

**Recycled Paper:** A paper product with not less than:(a) Fifty percent of its fiber weight consisting of secondary waste materials; or(b) Twenty-five percent of its fiber weight consisting of post-consumer waste.

**Recycled Product:** All materials, goods and supplies, not less than 50 percent of the total weight of which consists of secondary and post-consumer waste with not less than 10 percent of its total weight consisting of post-consumer waste. “Recycled Product” includes any product that could have been disposed of as solid waste, having completed its life cycle as a consumer item, but otherwise is refurbished for reuse without substantial alteration of the product’s form.

**SUSTAINABILITY:** Defined in [ORS 184.421 (“Sustainability” defined)](https://oregon.public.law/statutes/ors_184.421) and means using, developing and protecting resources in a manner that enables people to meet current needs and provides that future generations can also meet future needs, from the joint perspective of environmental, economic and community objectives.

**Sustainable Procurement:** Adopting social, economic and environmental factors, in addition to the typical price and quality considerations, into purchasing decisions

**Third-party Sustainability Certification:** A transparent, research-based verification for a product or service by an accredited, independent organization that formally documents compliance with specific sustainability standards.

**TCO Certified:** A third party verified sustainability certification for IT products based on life cycle environmental and social criteria.

**Total Cost of Ownership (TCO):** Costs associated with the procurement, usage and end of life treatment of a product

# Guiding Principles

State government purchases items with the highest level of sustainable attributes possible, in compliance with applicable purchasing laws and regulation. State agencies shall comply with this Policy and follow sustainable procurement practices when planning and designing projects, developing operational budgets, developing asset management plans, writing product or service specifications, selecting vendors, selecting materials, and making other purchasing decisions. State purchases shall:

1. Be made so as to serve the broad, long term financial interests of Oregonians, including ensuring that environmental, economic and societal improvements are made so as to enhance environmental, economic and societal well-being.
2. Reflect the highest feasible efficiency and lowest life cycle costs in investments in facilities, equipment and durable goods.
3. Promote improvements in the efficient use of energy, water and resources in investments and expenditures.
4. Maintain vital and active downtown and main street communities.
5. Help support opportunities for economically distressed communities and historically underemployed people.
6. Reflect the efficient use and reuse of resources and reduction of contaminants released into the environment.
7. Support diversity, equity and inclusion among suppliers of goods and services.
8. Support the health and safety of state employees and all Oregonians.
9. Help drive innovation toward more sustainable goods and services in the supplier community.

# General sustainable procurement practices

Agencies shall apply a holistic sustainability lens to procurement decisions:

1. Assess need for procurement. Agencies shall apply a decision hierarchy to procurement of goods and services to reduce unnecessary consumption and use resources efficiently.
	1. Justify the initial need for the procurement.
	2. Re-use and re-purpose goods and materials on hand.
	3. Check DAS State Surplus for the availability of goods.
	4. Consider cost-effective leasing options.
2. If the need for a new procurement is established:
	1. Comply with DAS Procurement Services standards for sustainability in specific price agreements.
	2. Utilize Oregon Forward or COBID certified vendors where available.
	3. Check Oregon Correction Enterprises (OCE) for product availability.
	4. Purchase goods that are durable and repairable.

# Environmental community, and fiscal objectives

Agencies shall include in their procurement planning processes for all goods and services consideration of environmental, social and fiscal impacts and make purchases that promote practices that protect and improve human and environmental health; conserve water, energy and other resources; minimize contributions to climate change; and support and promote diversity, equity and inclusion.

## Agencies shall consider the environmental impacts of purchasing decisions, such as procuring products and services that, where practicable:

* 1. Contain the least amount of embodied carbon.
	2. Generate the least amount of greenhouse gas emissions during use.
	3. Maximize recycled content.
	4. Minimize generation of waste.
	5. Use energy and water efficiently.
	6. Minimize impacts on habitats and ecosystems.
	7. Minimize depletion of natural resources.
	8. Reduce toxic contamination of air, land and water.
1. Recycled content, recovered materials and reusable goods:
	1. All contracting agencies shall establish procurement practices that ensure, to the maximum extent economically feasible, the procurement of goods that may be recycled or reused when discarded.
	2. Agencies shall give preference, where feasible, to the procurement of goods manufactured from recycled materials.
	3. Agencies procuring goods or personal services shall:
2. Prioritize the procurement of used goods to the maximum extent practical.
3. Eliminate, wherever economically feasible, discrimination against the procurement of recovered resources or recycled materials.
4. Provide incentives, wherever economically feasible, in all procurement specifications for the maximum possible use of recovered resources and recycled materials.
5. Establish management practices that minimize the amount of solid waste generated by reusing paper, envelopes, containers and all types of packaging and by limiting the amount of materials consumed and discarded.
6. Use, or require persons with whom the agency contracts to use in the performance of the contract work, to the maximum extent economically feasible, recycled paper and recycled PETE products as well as other recycled plastic resin products.

## Agencies shall consider the social/community impacts of purchasing decisions when procuring products and services that, where practicable:

* 1. Support and enhance environmental justice, equity, diversity and inclusion.
	2. Protect or enhance human health.
	3. Protect labor and human rights.
	4. Support fair wages.
	5. Support the Oregon economy and/or local economies in the state.
	6. Expand preferences for organizations, products, and services that are certified to provide positive social impacts, such as those offered by benefit corporations and Fair Trade Certified products.
1. In addition to directives in Section F, agencies shall integrate long-term and strategic fiscal good practices when procuring goods and services.
	1. Apply life-cycle cost analysis, rather than just up-front cost, when evaluating buy decisions.
	2. Consolidate spend decisions for bulk discounts.
	3. Collaborate with other agencies to leverage purchasing power.

# Sustainability certifications

DAS Procurement Services and state agencies shall apply third-party sustainability certifications when available and practical for a product or service being procured.

1. Use independent, third party social and/or environmental product or service label certifications when writing specifications for procuring materials, products or services.
2. Ensure certifications were developed in a transparent, broad and public stakeholder process.
3. Ensure certifications contain impactful, specific and meaningful criteria for the product or service category.
4. Obtain maximum benefit by applying multi-attribute certifications and/or applying more than one certification to a product or service.

# Specific Product requirements

In addition to the general procurement best practice guidance provided in Sections E through H, agencies shall follow standards for specific product categories:

1. Energy and water efficient equipment used inside buildings
	1. Equipment examples include but are not limited to appliances, electronics and IT Equipment, food service, HVAC, lighting, water and plumbing.
	2. Require, at a minimum, procurement of ENERGY STAR and WaterSense certified equipment.
	3. Encourage procurement of equipment with:
		1. Multi-attribute certifications that include high-efficiency energy and water specifications (e.g., Electronic Product Environmental Assessment Tool, TCO Certified, and UL ECOLOGO)
		2. For equipment where no efficiency standard or certification exists, select the most efficient equipment available
	4. Consult applicable price agreements for most current sustainability certifications.
	5. Purchase products that comply with and exceed Oregon minimum energy efficiency standards (ORS 469.233) and OAR Chapter 330, Division 92 for products that are not federally regulated.
2. Select products that minimize embodied carbon in carbon-intensive products and services:
	1. IT equipment:
		1. Comply with energy requirements in Subsection 1, above.
		2. Evaluate standard depreciation time for opportunities to extend product lifespan.
		3. Integrate energy efficiency criteria into the selection, design and operation of data centers.
	2. Construction materials:
		1. For new building construction or major renovations, or for horizontal infrastructure (e.g. roads, parking areas) consider requesting Environmental Product Declarations in requests for bids or proposals for specific building materials such as concrete, steel and asphalt.
		2. Where feasible, establish and implement materials greenhouse gas reduction specifications for specific projects.
		3. Where feasible, disclose greenhouse gas impacts using Whole Building Life Cycle Analysis.
		4. Prioritize deconstruction and salvage of building materials over building demolition and landfill.
		5. Consult with DEQ on the most feasible opportunities to reduce embodied carbon in construction materials.
	3. Vehicles:
		1. Procure electric vehicles per ORS 283.327 and DAS policy 107-011-040.
		2. Explore opportunities to reduce fleet annual vehicle miles traveled using fossil fuels to reduce carbon emissions from fuel consumption.
	4. Fuels and lubricants:
		1. Use the lowest carbon fuel feasible for a particular vehicle’s fuel type (e.g., renewable diesel, ethanol blends).
		2. Procure re-refined oils and lubricants per ORS 279a.010 where feasible.
	5. Professional services
		1. Include, questions about sustainable business practices in requests for bids and proposals, and integrate into the evaluation process. Where feasible, include questions about practices that affect greenhouse gas emissions.
	6. Paper and office supplies
		1. Agencies shall seek to first reduce use of paper by employing paperless processes and digital signatures where feasible.
		2. No less than 35 percent of state agency procurements of paper products may be from recycled paper products.
		3. Agencies should procure office paper with 100 percent recycled content wherever practical, with a minimum of at least 35 percent recycled content.
		4. Procure other green office supplies were available and cost-effective.
	7. Food
		1. Reduce food waste in state agency cafeterias.

1. Comply with DAS Statewide Policy 107-009-0080-PO, Green Chemistry Procurement Guidelines, to reduce toxic chemicals of concern in products procured by state agencies and used by contractors.
	1. Procure products that do not contain any toxic substances listed on DEQ’s toxic focus list, at a minimum.
	2. Consider other Sustainability options.
	3. Apply Green Chemistry in buy decisions and procurement methods.
	4. Report information related to the EO goal.
	5. Utilize other procurement-related resources and tools.

Agencies shall use statewide price agreements for janitorial supplies, which include third-party certified green cleaning supplies and recycled content paper products.

# Bid and proposal process and price agreements

1. Proposal and bid language:
	1. Bid language shall reflect an agency’s intent to select goods and services based on “best value”, which may include considerations such as:
		1. Total cost of ownership.
		2. Durability.
		3. Sustainability attributes and their benefits.
		4. Other factors an agency identifies as valuable product or service attributes.
	2. An invitation to bid or a request for proposals issued by an agency shall include the following language: “Vendors shall use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this document.”
2. Agencies, including DAS, shall:
	1. Integrate into bid specifications any required or desired sustainability attributes, including those contained in this policy.
	2. Develop criteria where applicable and feasible, for selecting vendors and awarding contracts related to vendor sustainability practices in their operations.
	3. Consider sustainability considerations when amending price agreements or renewing contracts.
	4. Work with vendors to make more sustainable products and services the default choice for purchasers in Oregon Buys.
	5. Negotiate, where feasible, discounts on more sustainable products and services for state contracts.

# Procedures

DAS Procurement Services will serve as the lead for the state of Oregon sustainable procurement program, ensuring that sustainable procurement best practices are embedded across planning, specification development, bid evaluation, contract management and tracking procedures.

1. Sustainable Program Procurement Manager
	1. Provide guidance to all agencies on sustainable procurement processes, requirements, and strategies
	2. Review new or renewed price agreements and identify required and recommended sustainability criteria
	3. Develop standard sustainable procurement language for solicitation document templates
	4. Assist agencies in developing product and service specifications and procurement best practices that meet the requirements of this Policy
	5. Track metrics and report annually on state enterprise-wide sustainable procurement efforts, including establishing metrics required from vendors
	6. Engage key stakeholders in accomplishing the goals and objectives of the Sustainable Procurement Program
	7. Engage with the supplier community to communicate program requirements and move suppliers toward more sustainable products and services
	8. Consult with Oregon Department of Environmental Quality on the development of sustainability criteria for product and service price agreements, metrics and other programmatic elements.
2. Other DAS procurement staff
	1. Maintain or develop fundamental understanding of sustainable procurement through formal or informal trainings
	2. Coordinate with the sustainable procurement program manager to review price agreements, as applicable, and incorporate sustainability criteria into bid documents and selection of vendors
	3. Answer questions from vendors about sustainability criteria in bid documents and contracts
	4. Support state agencies to help understand sustainability criteria
	5. Provide trainings to state agency staff on sustainable procurement program best practices, requirements and recommendations
3. Agency designated procurement officers
	1. Lead agencies on sustainable procurement processes, requirements and strategies
	2. Incorporate sustainability into agency budgeting for future spend decisions
	3. Set and communicate criteria for their agency buy decisions, including demonstrating the need for the procurement, and implementing the decision hierarchy in Section F of this Policy
	4. Help staff comply with, support and utilize statewide price agreements incorporating sustainability criteria
	5. Educate their agency staff about sustainable procurement requirements, best practices, and recommendations and encourage participation in sustainable procurement trainings
4. Agency staff with purchasing authority
	1. Comply with, support and utilize statewide price agreements incorporating sustainability criteria, including purchases made with and without SPOTS cards

# Program and policy evaluation

1. DAS Procurement Services shall compile annually a Sustainable Procurement Program Report that:
	1. Reports qualitatively on program progress and accomplishments
	2. Reports on Key Performance Metrics for sustainable procurement across the state government enterprise
	3. Provides recommendations for continuous improvement, both for DAS sustainable procurement efforts as well as agency procurement activities
	4. Demonstrates transparency and accountability
2. State agencies should track and periodically report on sustainable procurement activities.
	1. Obtain spend data from DAS Procurement Services related to sustainable procurements and requirements of this Policy
	2. Report on progress through an established Sustainability Plan or other means
	3. Share progress with staff internally and support transparency, accountability and continuous improvement in sustainable procurement practices