

**(2) Buildings without Energy Star label**

If one of the conditions described in paragraph (1) is met, the agency may enter into a contract to lease space in a building that has not earned the Energy Star label in the most recent year if the lease contract includes provisions requiring that, prior to occupancy or, in the case of a contract described in paragraph (1)(B), not later than 1 year after signing the contract, the following requirements are met:

(A) The space is renovated for all energy efficiency and conservation improvements that would be cost effective over the life of the lease, including improvements in lighting, windows, and heating, ventilation, and air conditioning systems.

(B)(i) Subject to clause (ii), the space is benchmarked under a nationally recognized, online, free benchmarking program, with public disclosure, unless the space is a space for which owners cannot access whole building utility consumption data, including spaces—

(I) that are located in States with privacy laws that provide that utilities shall not provide such aggregated information to multitenant building owners; and

(II) for which tenants do not provide energy consumption information to the commercial building owner in response to a request from the building owner.

(ii) A Federal agency that is a tenant of the space shall provide to the building owner, or authorize the owner to obtain from the utility, the energy consumption information of the space for the benchmarking and disclosure required by this subparagraph.

**(c) Revision of Federal Acquisition Regulation****(1) In general**

Not later than 3 years after December 19, 2007, the Federal Acquisition Regulation described in section 1121(b) and (c)(1) of title 41 shall be revised to require Federal officers and employees to comply with this section in leasing buildings.

**(2) Consultation**

The members of the Federal Acquisition Regulatory Council established under section 1302(a) of title 41 shall consult with the Federal Director and the Commercial Director before promulgating regulations to carry out this subsection.

(Pub. L. 110-140, title IV, §435, Dec. 19, 2007, 121 Stat. 1615; Pub. L. 114-11, title III, §301(a), Apr. 30, 2015, 129 Stat. 189.)

## CODIFICATION

In subsec. (c)(1), “section 1121(b) and (c)(1) of title 41” substituted for “section 6(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(a))” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (c)(2), “section 1302(a) of title 41” substituted for “section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421)” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

## AMENDMENTS

2015—Subsec. (b)(2). Pub. L. 114-11 substituted “paragraph (1) is met” for “paragraph (2) is met” and “signing the contract, the following requirements are met:” for “signing the contract, the space will be renovated for all energy efficiency and conservation improvements that would be cost effective over the life of the lease, including improvements in lighting, windows, and heating, ventilation, and air conditioning systems.” and added subpars. (A) and (B).

**§ 17092. High-performance green Federal buildings****(a) Establishment of Office**

Not later than 60 days after December 19, 2007, the Administrator shall establish within the General Services Administration an Office of Federal High-Performance Green Buildings, and appoint an individual to serve as Federal Director in, a position in the career-reserved Senior Executive service, to—

(1) establish and manage the Office of Federal High-Performance Green Buildings; and

(2) carry out other duties as required under this part.

**(b) Compensation**

The compensation of the Federal Director shall not exceed the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title.

**(c) Duties**

The Federal Director shall—

(1) coordinate the activities of the Office of Federal High-Performance Green Buildings with the activities of the Office of Commercial High-Performance Green Buildings, and the Secretary, in accordance with section 6834(a)(3)(D) of this title;

(2) ensure full coordination of high-performance green building information and activities within the General Services Administration and all relevant agencies, including, at a minimum—

(A) the Environmental Protection Agency;

(B) the Office of the Federal Environmental Executive;

(C) the Office of Federal Procurement Policy;

(D) the Department of Energy;

(E) the Department of Health and Human Services;

(F) the Department of Defense;

(G) the Department of Transportation;

(H) the National Institute of Standards and Technology; and

(I) the Office of Science and Technology Policy;

(3) establish a senior-level Federal Green Building Advisory Committee under section 474,<sup>1</sup> which shall provide advice and recommendations in accordance with that section and subsection (d);

(4) identify and every 5 years reassess improved or higher rating standards recommended by the Advisory Committee;

<sup>1</sup> See References in Text note below.

(5) ensure full coordination, dissemination of information regarding, and promotion of the results of research and development information relating to Federal high-performance green building initiatives;

(6) identify and develop Federal high-performance green building standards for all types of Federal facilities, consistent with the requirements of this part and section 6834(a)(3)(D) of this title;

(7) establish green practices that can be used throughout the life of a Federal facility;

(8) review and analyze current Federal budget practices and life-cycle costing issues, and make recommendations to Congress, in accordance with subsection (d); and

(9) identify opportunities to demonstrate innovative and emerging green building technologies and concepts.

**(d) Additional duties**

The Federal Director, in consultation with the Commercial Director and the Advisory Committee, and consistent with the requirements of section 6834(a)(3)(D) of this title shall—

(1) identify, review, and analyze current budget and contracting practices that affect achievement of high-performance green buildings, including the identification of barriers to high-performance green building life-cycle costing and budgetary issues;

(2) develop guidance and conduct training sessions with budget specialists and contracting personnel from Federal agencies and budget examiners to apply life-cycle cost criteria to actual projects;

(3) identify tools to aid life-cycle cost decisionmaking; and

(4) explore the feasibility of incorporating the benefits of high-performance green buildings, such as security benefits, into a cost-budget analysis to aid in life-cycle costing for budget and decisionmaking processes.

**(e) Incentives**

Within 90 days after December 19, 2007, the Federal Director shall identify incentives to encourage the expedited use of high-performance green buildings and related technology in the operations of the Federal Government, in accordance with the requirements of section 6834(a)(3)(D) of this title, including through—

(1) the provision of recognition awards; and

(2) the maximum feasible retention of financial savings in the annual budgets of Federal agencies for use in reinvesting in future high-performance green building initiatives.

**(f) Report**

Not later than 2 years after December 19, 2007, and biennially thereafter, the Federal Director, in consultation with the Secretary, shall submit to Congress a report that—

(1) describes the status of compliance with this part, the requirements of section 6834(a)(3)(D) of this title, and other Federal high-performance green building initiatives in effect as of the date of the report, including—

(A) the extent to which the programs are being carried out in accordance with this part and the requirements of section 6834(a)(3)(D) of this title; and

(B) the status of funding requests and appropriations for those programs;

(2) identifies within the planning, budgeting, and construction process all types of Federal facility procedures that may affect the certification of new and existing Federal facilities as high-performance green buildings under the provisions of section 6834(a)(3)(D) of this title and the criteria established in subsection (h);

(3) identifies inconsistencies, as reported to the Advisory Committee, in Federal law with respect to product acquisition guidelines and high-performance product guidelines;

(4) recommends language for uniform standards for use by Federal agencies in environmentally responsible acquisition;

(5) in coordination with the Office of Management and Budget, reviews the budget process for capital programs with respect to alternatives for—

(A) restructuring of budgets to require the use of complete energy and environmental cost accounting;

(B) using operations expenditures in budget-related decisions while simultaneously incorporating productivity and health measures (as those measures can be quantified by the Office of Federal High-Performance Green Buildings, with the assistance of universities and national laboratories);

(C) streamlining measures for permitting Federal agencies to retain all identified savings accrued as a result of the use of life-cycle costing for future high-performance green building initiatives; and

(D) identifying short-term and long-term cost savings that accrue from high-performance green buildings, including those relating to health and productivity;

(6) identifies green, self-sustaining technologies to address the operational needs of Federal facilities in times of national security emergencies, natural disasters, or other dire emergencies;

(7) summarizes and highlights development, at the State and local level, of high-performance green building initiatives, including executive orders, policies, or laws adopted promoting high-performance green building (including the status of implementation of those initiatives); and

(8) includes, for the 2-year period covered by the report, recommendations to address each of the matters, and a plan for implementation of each recommendation, described in paragraphs (1) through (7).

**(g) Implementation**

The Office of Federal High-Performance Green Buildings shall carry out each plan for implementation of recommendations under subsection (f)(8).

**(h) Identification of certification system**

**(1) In general**

For the purpose of this section, not later than 60 days after December 19, 2007, the Federal Director shall identify and shall provide to the Secretary pursuant to section 6834(a)(3)(D) of this title, a certification sys-

tem that the Director determines to be the most likely to encourage a comprehensive and environmentally-sound approach to certification of green buildings.

**(2) Basis**

The system identified under paragraph (1) shall be based on—

(A) a study completed every 5 years and provided to the Secretary pursuant to section 6834(a)(3)(D) of this title, which shall be carried out by the Federal Director to compare and evaluate standards;

(B) the ability and availability of assessors and auditors to independently verify the criteria and measurement of metrics at the scale necessary to implement this part;

(C) the ability of the applicable standard-setting organization to collect and reflect public comment;

(D) the ability of the standard to be developed and revised through a consensus-based process;

(E) an evaluation of the robustness of the criteria for a high-performance green building, which shall give credit for promoting—

(i) efficient and sustainable use of water, energy, and other natural resources;

(ii) use of renewable energy sources;

(iii) improved indoor environmental quality through enhanced indoor air quality, thermal comfort, acoustics, day lighting, pollutant source control, and use of low-emission materials and building system controls;

(iv) reduced impacts from transportation through building location and site design that promote access by public transportation; and

(v) such other criteria as the Federal Director determines to be appropriate; and

(F) national recognition within the building industry.

(Pub. L. 110-140, title IV, § 436, Dec. 19, 2007, 121 Stat. 1616.)

REFERENCES IN TEXT

This part, referred to in subsecs. (a)(2), (c)(6), (f)(1) and (h)(2)(B), was in the original “this subtitle”, meaning subtitle C (§§ 431-441) of title IV of Pub. L. 110-140, Dec. 19, 2007, 121 Stat. 1607, which enacted this part, amended sections 6832, 6834, 8253, and 8254 of this title, and enacted provisions set out as a note under section 6834 of this title. For complete classification of subtitle C to the Code, see Tables.

Section 474, referred to in subsec. (c)(3), probably means section 494 of Pub. L. 110-140, which is classified to section 17123 of this title.

CHANGE OF NAME

Office of the Federal Environmental Executive reestablished as the Office of the Chief Sustainability Officer by Ex. Ord. No. 13693, § 6, Mar. 19, 2015, 80 F.R. 15877, set out in a note under section 4321 of this title.

**§ 17093. Federal green building performance**

**(a) In general**

Not later than October 31 of each of the 2 fiscal years following the fiscal year in which this Act is enacted, and at such times thereafter as the Comptroller General of the United States

determines to be appropriate, the Comptroller General of the United States shall, with respect to the fiscal years that have passed since the preceding report—

(1) conduct an audit of the implementation of this part, section 6834(a)(3)(D) of this title, and section 17091 of this title; and

(2) submit to the Federal Director, the Advisory Committee, the Administrator, and Congress a report describing the results of the audit.

**(b) Contents**

An audit under subsection (a) shall include a review, with respect to the period covered by the report under subsection (a)(2), of—

(1) budget, life-cycle costing, and contracting issues, using best practices identified by the Comptroller General of the United States and heads of other agencies in accordance with section 17092(d) of this title;

(2) the level of coordination among the Federal Director, the Office of Management and Budget, the Department of Energy, and relevant agencies;

(3) the performance of the Federal Director and other agencies in carrying out the implementation plan;

(4) the design stage of high-performance green building measures;

(5) high-performance building data that were collected and reported to the Office; and

(6) such other matters as the Comptroller General of the United States determines to be appropriate.

**(c) Environmental Stewardship Scorecard**

The Federal Director shall consult with the Advisory Committee to enhance, and assist in the implementation of, the Office of Management and Budget government efficiency reports and scorecards under section 17144 of this title and the Environmental Stewardship Scorecard announced at the White House summit on Federal sustainable buildings in January 2006, to measure the implementation by each Federal agency of sustainable design and green building initiatives.

(Pub. L. 110-140, title IV, § 437, Dec. 19, 2007, 121 Stat. 1619.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 110-140, which was approved Dec. 19, 2007.

This part, referred to in subsec. (a)(1), was in the original “this subtitle”, meaning subtitle C (§§ 431-441) of title IV of Pub. L. 110-140, Dec. 19, 2007, 121 Stat. 1607, which enacted this part, amended sections 6832, 6834, 8253, and 8254 of this title, and enacted provisions set out as a note under section 6834 of this title. For complete classification of subtitle C to the Code, see Tables.

**§ 17094. Storm water runoff requirements for Federal development projects**

The sponsor of any development or redevelopment project involving a Federal facility with a footprint that exceeds 5,000 square feet shall use site planning, design, construction, and maintenance strategies for the property to maintain or restore, to the maximum extent technically feasible, the predevelopment hydrology of the prop-