

MANAGEMENT MEMO

	NUMBER: MM 22-02
SUBJECT: BUY CLEAN CALIFORNIA ACT FOR PUBLIC WORKS PROJECT CONTRACTS	DATE ISSUED: JUNE 28, 2022 EXPIRES: WHEN RESCINDED
REFERENCES: PUBLIC CONTRACT CODE § 3500-3505	ISSUING AGENCY: DEPARTMENT OF GENERAL SERVICES

Purpose

This Management Memo (MM) provides awarding authorities with directives to meet the requirements set forth in the Buy Clean California Act (BCCA).

Awarding authorities are those identified in Public Contract Code (PCC) § 3501 (a) as:

- A state agency for a contract for a public works project that is subject to the State Contract Act (Chapter 1 (commencing with Section 10100) of Part 2).
- The Regents of the University of California for a contract for a public works project that is subject to Chapter 2.1 (commencing with Section 10500) of Part 2.
- The Trustees of the California State University for a contract for a public works project that is subject to the California State University Contract Law (Chapter 2.5 (commencing with Section 10700) of Part 2).

MM 19-01 “Buy Clean California Act” and MM 20-01 “Buy Clean California Act” have expired; this new MM contains updated BCCA requirements.

Policy

Pursuant to PCC 3502, the Department of General Services (DGS) has made available on the DGS internet website, the maximum acceptable global warming potential (GWP) for each category of eligible materials.

Eligible materials subject to the BCCA are: structural steel, carbon steel rebar, flat glass, and mineral wool board insulation.

Beginning July 1, 2022, awarding authorities shall:

1. Strive to achieve a continuous reduction of emissions over time per PCC 3504.
2. Require successful bidders for contracts described in subdivision (b) of PCC 3503 to submit a current facility-specific Environmental Product Declaration (EPD), Type III, as defined by the International Organization for Standardization (ISO) standard 14025, or similarly robust life cycle assessment methods that have uniform standards in data collection consistent with ISO standard 14025, industry acceptance, and integrity, for each eligible material proposed to be used.
3. Include in specifications for bids for eligible projects that the facility-specific GWP for any eligible material does not exceed the maximum acceptable

STATE ADMINISTRATIVE MANUAL

GWP for that material determined pursuant to PCC 3502 as published on the DGS website. An awarding authority may include in specifications for bids for eligible projects a facility-specific GWP for any eligible material that is lower than the maximum acceptable GWP for that material.

4. Require successful bidders for contracts described in subdivision (b) of PCC 3503 to not install any eligible materials on projects until bidders submit a facility-specific EPD for that material pursuant to subdivision (a) of PCC 3503.
5. Waive PCC 3503 requirements for eligible materials for a particular contract upon determination and upon written justification published on its internet website, that requiring those eligible materials to comply would be technically infeasible, would result in a significant increase in the project cost or a significant delay in completion, or would result in only one source or manufacturer being able to provide the type of material needed by the state.
6. Waive PCC 3503 requirements upon determination that an emergency exists, as defined in Section 1102, or that any of the circumstances described in subdivisions (a) to (d), inclusive, of Section 10122 exist.
7. Report to the DGS, no later than 90 days upon project closeout, information from public works projects subject to the BCCA including the submission of EPDs for all eligible materials used in public works projects subject to the BCCA.

PCC 3505 requires DGS, by July 1, 2023, to submit a report to the Legislature on any obstacles to the implementation of this article, and the effectiveness of this article to reduce GWP. Therefore, awarding authorities are required to report information from public works projects subject to the BCCA as required above in item #7.

The State Contracting Manual (SCM) will also be updated to include the policy and procedures identified in this MM.

Procedures

Awarding authorities shall report project information and EPDs using the reporting tool developed by DGS. The reporting tool and access to training for the reporting tool are available on the BCCA MS Teams group and accessible only to awarding authorities. Email BuyCleanCalifornia@dgs.ca.gov to request access.

The maximum acceptable GWP for each category of eligible materials is located on the DGS BCCA website here:

<https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/Buy-Clean-California-Act>

Background

The BCCA was introduced as Assembly Bill (AB) 262 and signed into law on October 15, 2017. Beginning July 1, 2022, it targets the embodied carbon emissions of eligible construction materials used in public works projects. The BCCA requires that these materials have a GWP below a limit set by the DGS. EPDs will be used to determine compliance to these limits.

STATE ADMINISTRATIVE MANUAL

Questions

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Or

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Signature



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