

## **GSA Greenhouse Gas Emissions Reduction Plan To Impact 600,000 Vendors**

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On July 8, 2010, the General Services Administration released its Recommendations for Vendor and Contractor Emissions concluding “that it is feasible, if employing the recommended phased approach [beginning in 2011], for the Federal Government to track and reduce its scope 3 supply chain [greenhouse gas] emissions through coordination with suppliers.”

That convoluted government-speak statement is of huge import to the more than 600,000 companies registered to do business with the Federal Government.

### **Executive Order 13514**

By way of background on October 5, 2009, the President signed Executive Order 13514 calling on Federal agencies to “establish an integrated strategy towards sustainability in the Federal Government and to make reduction of greenhouse gas emissions a priority for federal agencies.” Among other initiatives, the EO requires agencies to set baselines and targets for their scope 1, 2, and 3 greenhouse gas emissions. (GHG emissions are divided into three “scopes” for management purposes. Scope 3 emissions are emissions from indirect sources related to agency activities, including supply chain emissions.) Section 13 of the EO specifically directs the GSA to assess the feasibility of working with the vendors and contractors that serve federal agencies to measure and reduce supply chain GHG emissions, while encouraging sustainable supplier operations.

### **The GSA Recommendations**

The July 8 report to the President concluded “that it is feasible” for the Federal Government to track and reduce its scope 3 GHG emissions related to the supply of products of services to the Government, through the companies that do business with the Government.

GSA acknowledges the reporting of scope 3 supply chain emissions is an emerging field, and stakeholders will need time and resources to adjust to a steep learning curve. Adopting a phased approach should allow the Government to incorporate leading practices as they develop. The recommended mechanism for achieving scope 3 supply chain emissions tracking is based on existing requirements for agencies to measure and set reduction goals for scope 3 GHG emissions. Specifically including supply chain emissions in agency scope 3 inventories should provide the incentive for agencies to track supplier emissions and use emissions information in procurement decisions.

GSA specifically determined it is feasible for Federal agencies to work with their suppliers to “voluntarily disclose” the information necessary for tracking and reducing agency scope 3 supply chain GHG emissions. A growing number of companies are calculating their own GHG inventories and collecting some elements of GHG emissions data from their suppliers. Although it is feasible for suppliers to voluntarily disclose emissions data, it is important to understand that

this is an emerging business field, and many suppliers currently do not collect emissions inventory data. Therefore, voluntary disclosure of emissions from the entire Federal supplier base should be implemented in a phased approach.

Suppliers who disclose their GHG emissions can gain a competitive advantage not only with their Federal customers, but also with their commercial customers and the public, who are increasingly seeking “greener” companies when making procurement decisions.

GSA was unable to find an existing federally accepted product standard or label for GHG emissions. It is technically feasible to use Government purchasing preferences for low GHG suppliers and products much the same way purchasing preferences are employed for other programs, like socioeconomic business and green product preferences. However, until accepted product GHG emissions product standards are available, procurement preferences cannot be employed effectively at the “product” level. However, as soon as sufficient numbers of suppliers are voluntarily disclosing their GHG emissions with agencies, “corporate” level supplier GHG emissions can be used as an evaluation factor until an accepted product level GHG emissions standard is available to support a procurement evaluation factor.

### **Voluntary disclosure in 2011**

Under this phased approach, the Government could begin using data provided by suppliers as early as 2011.

As noted, the most significant incentive for Federal suppliers to submit GHG inventory data is the desire to remain competitive in the Federal marketplace. The EO requires Federal agencies to track components of scope 3 GHG emissions and set reduction targets. It is anticipated that this will naturally lead agencies to look for opportunities to reduce the emissions from their supply chains. With agencies looking for reduction opportunities, suppliers will want to add low GHG emissions as part of their value statement.

### **Reporting already going on**

Appreciate that this is already going on in the private sector. Even though capturing supplier emissions is difficult, businesses are recognizing the benefits of doing so. By way of example, Wal-Mart in September 2007 began to measure its supply chain energy use and emissions. The project began with less than 10 U.S. based supplier sectors (such as DVDs, milk, and vacuum cleaners), but it is expanding to other sectors. In addition to GHG emissions reductions, Wal-Mart is planning to track overall supplier sustainability. The company plans to have suppliers rate their products based on sustainability criteria, collect data on product lifecycles, and develop a transparent sustainability index.

The field of Federal government required GHG emissions reporting expanded dramatically at the end of 2009 when the EPA mandatory reporting rule took effect. That rule requires all businesses with GHG emissions greater than 25,000 metric tons CO<sub>2</sub>-e (emissions of the Kyoto 6 gases weighted by their 100-year global warming potential) to report annually to the EPA. With the advent of this rule, more than 10,000 facilities in the U.S. are measuring and reporting their GHG

emissions and gaining experience conducting inventories.

And earlier this year, the Securities and Exchange Commission required publicly traded companies to start reporting climate change risks in their annual financial reports. By identifying the areas within their supply chain with the greatest GHG emissions, companies can mitigate related business risks, such as regulatory changes or the physical effects of climate change. This allows the company to actively reduce its business risks and protect shareholder interests.

Those instances observed, GHG emissions reporting by companies is still a nascent trend.

### **Disclose emissions over the next 2 years**

With that challenge in mind, GSA has recommended, the Federal Government encourage its 600,000 suppliers to create and voluntarily disclose their emissions inventories over the next 2 years (through 2012). Once the Government has sufficient data for analysis, agencies can start to set effective reduction targets and develop actionable plans to achieve those targets.

### **Toward a zero environmental footprint**

As a harbinger of what those Federal government targets will likely be in reducing GHG emissions, first appreciate that today all GSA new construction projects and substantial renovations must achieve Silver certification through the LEED® green building rating system of the U.S. Green Building Council; and projects are encouraged to exceed LEED Silver and achieve LEED Gold.

Second and most importantly, be aware that GSA Administrator, Martha N. Johnson has proposed, including in a May 18, 2010 address at a Federal Summit, that the federal government move to a zero environmental footprint, and she stressed that GSA is setting its sights on “eliminating the impact of the federal government on our natural environment.”

### **We work in matters of greenhouse gas emissions**

We work with a broad breadth of businesses in matters of greenhouse gas emission and sustainable business practices, including voluntary environmental reports, as well as SEC disclosures, financial statement compliance and preparing to make GSA disclosures; much of that work, including greenhouse gas emission studies, being done by [ajhon Sustainable Systems Integrator](#), a non-legal affiliate of our law firm. If we can assist your company, including working with your in house counsel and outside consultants as you prepare for the first phase of GSA greenhouse gas emissions reporting, please contact Stuart Kaplow.

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