

GSA Acquisition Policy Federal Advisory Committee (GAP FAC) Policy & Practice Subcommittee Meeting

August 31, 2023

The GSA Acquisition Policy Federal Advisory Policy & Practice Subcommittee convened for a public meeting at 3:00 PM on August 31, 2023, virtually via Zoom, with Luke Bassis, Co-Chair, presiding.

In accordance with FACA, as amended, 5 U.S.C. App 2, the meeting was open to the public from 3:00 P.M. to 5:00 P.M. EST.

Committee Members Present:

Luke Bassis, Co-Chair	<i>Port Authority of New York and New Jersey</i>
Richard Beutel	<i>George Mason University</i>
Leslie Cordes	<i>Ceres</i>
Nicole Darnall	<i>Arizona State University</i>
Mark Hayden	<i>State of New Mexico</i>
Amlan Mukherjee	<i>Michigan Technological University</i>
Nigel Stephens	<i>U.S. Black Chambers of Commerce</i>
Anish Tilak	<i>Rocky Mountain Institute</i>
Dr. David Waggoner	<i>Institute of Scrap Recycling Industries</i>
Dr. Kimberly Wise White	<i>American Chemistry Council</i>

Absent: Antonio Doss, Jennie Romer, Steven Schooner, Stacy Smedley

Guest Speakers & Presenters:

Patricia Dillon - *Vice President, Criteria & Category Development, Global Electronics Council*

Rachel Simon - *Senior Manager, Technology Assessment & Resource Development, Global Electronics Council*

GSA Staff Present:

Boris Arratia	<i>Designated Federal Officer</i>
David Cochennic	<i>GAP FAC Support</i>
Skylar Holloway	<i>GAP FAC Support</i>
Kimberly Browne	<i>Closed Captioner</i>
Susan Chinnici Moyer	<i>ASL Interpreters</i>
Rene Devito	<i>ASL Interpreters</i>

CALL TO ORDER

Boris Arratia, Designated Federal Officer, opened the public meeting by welcoming the group before reminding the public that there will be time for comments and statements at the end of the meeting. He then performed a roll call to confirm attendance and a quorum. After the quorum was met, he turned the meeting over to Co-Chair Luke Bassis.

Introductory Remarks

Co-Chair Luke Bassis welcomed the committee before reviewing the agenda. The group will hear a report on the Per- and Polyfluoroalkyl Substances (PFAS) work group progress and matters with the technology tools recommendation. The Acquisition Workforce (AWFS) subcommittee has been working on the same recommendations the Policy & Practice subcommittee has been. The group will distinguish what items the subcommittee can and can't do moving forward and how they can contribute to the AWFS recommendation on technology tools. There are other potential recommendations the group will look at to potentially pursue for the upcoming full committee meeting.

PFAS/Tech Tools Group Report Out

Richard Beutel provided an update on the discussions related to the inclusion of PFAS in the subcommittee's recommendation. He had conducted a comprehensive review of relevant literature and received thorough briefings on the background of PFAS. However, he noted some challenges in defining the scope of prohibitions and acquisition policy recommendations regarding PFAS. There appears to be confusion and ambiguity within the group about what forms of PFAS should be addressed and what kind of prohibitions or acquisition policies should be recommended.

He proposed aligning PFAS-related regulations with a pending federal notice of proposed rulemaking on sustainable procurement. This proposed rulemaking aims to streamline and revise the Federal Acquisition Regulation (FAR) to consolidate various regulations under one umbrella. If this route was taken, PFAS regulations could be integrated into FAR Part 23 without the need for separate procurement procedures. The pending rulemaking aims to eliminate certain agency certifications and ecological certifications, such as the EPAT program. Instead, it proposes that federal sustainability policies should apply to any GSA-certified product or service. Therefore, if PFAS was scientifically defined and adopted, it could be integrated into FAR Part 23 without the need for additional procurement regulations. The main challenge lay in defining PFAS scientifically and chemically, particularly in different categories and forms.

Kimberly Wise-White addressed the challenge of defining PFAS comprehensively. She suggested seeking input from the American Chemistry Council (ACC) colleagues who work with fluoro polymers and have experience with state-level definitions. Their insights could help craft a more effective PFAS definition for managing these substances.

The PFAS group will continue to meet and work through these issues.

Revisit Recommendations & Other Administrative Business

Luke spotlighted Nicole Darnall and emphasized her importance in the ongoing conversation. The subcommittee has reached a crossroads regarding tech tools and has started formulating recommendations related to tools and gaps between various software systems. However, the acquisition workforce subcommittee has also identified this as a key area and was working on recommendations. Nicole provided an update on the acquisition workforce's progress with tech tools and how both groups could coordinate effectively.

Nicole discussed the ongoing work of the acquisition workforce subcommittee, focusing on challenges related to data standardization, the potential of AI in contract writing, and the importance of learning from advanced states and international organizations in sustainability efforts. They highlighted the need for coordination between the two subcommittees and the ongoing collection of data to inform recommendations.

Anish Tilak responded to Nicole's mention of data standardization concerns. He proposed investigating data quality and standardization at a higher level, as the subcommittee might not have the capacity to dive deep into each individual product category in procurement. Anish suggested creating a "heat map" to identify areas or categories that require more development or sophistication in data quality, highlighting hotspots for immediate action or next steps.

Amlan mentioned a four-point framework and suggested collaborating with universities to improve education related to procurement. He believes the subcommittee could explore what universities are teaching and whether it aligns with the needs of professionals entering the procurement field.

Boris highlighted the leverage that GSA has in managing category management programs across federal agencies, emphasizing the significant influence it can have. He noted the complexity of category management and the potential for the subcommittee's efforts to make a significant difference.

Nicole Darnell shared insights on data complexities from experts at EPA and suggested reviewing a prior acquisition workforce subcommittee public meeting video for more

information. She anticipates recommending that GSA takes a leadership role in standardizing chemical data across agencies. She also mentioned that data from the Safer Choice program could be valuable due to its requirement for data collection.

The tech tools group will reconvene to map out the next steps, with the goal of reaching recommendations quickly.

Luke asked participants to visualize themselves on November 16th, where they would be making a recommendation based on their expertise. Luke shared that he intended to focus on evaluating the best sustainable procurement practices and policies at the state and local government levels. He aimed to benchmark leading states' policies and practices and create a task group to suggest best practices for GSA. Several members expressed interest in collaborating on specific recommendations:

- Kimberly Wise-White expressed her interest in using a science-based approach to evaluate policies and practices, integrate client-related initiatives, and ensure the sustainability of the recommended process.
- Anish Tilak proposed focusing on non-toxic and chemical-free construction materials, with a specific recommendation related to screening for chemicals in materials. Other group members will join him in this research.
- David Waggoner expressed interest in reducing the toxicity of materials and focusing on other materials such as paper, metals, and plastics. He wanted to ensure that the recommendations consider risk factors related to concentration and exposure.
- Nicole Darnall shared her expertise on sustainable procurement practices and offered to assist Anish in his efforts. She also suggested looking into the Sustainable Purchasing Leadership Council and leveraging her resources to support the group's work.
- Mark Hayden expressed his interest in evaluating state-level sustainable procurement policies and practices and engaging with organizations like the European Union and the United Nations.
- Richard Beutel suggested liaising with organizations like NASPO (National Association of State Procurement Officials) to streamline the procurement process and maximize the impact of recommendations.

Guest Speaker

In this presentation, Patricia Dillon and Rachel Simon from the Global Electronics Council (GEC) discuss their organization's mission, which is to promote sustainability in

electronic products and services. They emphasize the importance of technology advancement while ensuring that it doesn't come at the expense of the environment and human health.

GEC has a role in managing the EPEAT eco-label, which assists purchasers in evaluating and comparing electronic products based on sustainability criteria. These criteria encompass various product categories such as IT equipment, imaging equipment, mobile phones, and photovoltaics. EPEAT's criteria focus on transparency, restrictions on harmful substances, and the promotion of safer alternatives.

PFAS are a group of chemicals of concern due to their potential negative impacts on human health and the environment. The presentation acknowledges several challenges associated with tackling PFAS in the electronics industry:

- **Complex Supply Chain:** The electronics industry involves a global supply chain with numerous suppliers. Manufacturers struggle to obtain comprehensive information on PFAS usage across their supply chains.
- **Scope Definition:** Defining the scope of substances to target is challenging. The presentation questions whether to include all potential PFAS chemicals or focus on a specific list. Deciding on a comprehensive and achievable list is a key consideration.
- **Competing Sustainability Goals:** There are competing sustainability goals within the industry, such as addressing fire safety regulations and promoting recyclability. Balancing these objectives while addressing PFAS restrictions presents a dilemma.
- **Testing Limitations:** The presentation highlights limitations in testing methods for PFAS, including the difficulty of measuring total fluorine to validate PFAS presence.
- **Lack of Feasible Alternatives:** Finding suitable alternatives for PFAS functions remains a challenge, as not all applications have safe substitutes readily available.

There are three primary approaches for addressing PFAS in electronic products:

- **Supply Chain Knowledge and Transparency:** This approach involves collecting information on the presence of PFAS in products. A potential goal is to identify the presence of PFAS chemicals based on standardized lists. However, challenges include determining which list of chemicals to use and whether to disclose this information to consumers.
- **Restriction or Elimination:** This approach aims to restrict or eliminate PFAS substances from electronic products. Challenges include defining the criteria for

restrictions, addressing competing compliance obligations, and ensuring essential use exemptions.

· Chemical Hazards Assessment for Alternatives: Evaluating the impact of PFAS replacements to avoid regrettable substitutes is another approach. Challenges here include the lack of hazard information on PFAS and alternatives, prioritizing impact, and establishing threshold limits for restrictions.

Questions

Q: Mark Hayden – If PFAS is used as a small plastic lubricant or release agent, would the state laws ban its recycling or use?

A: Rachel Simon – It depends on how those laws are crafted. In California, that law dictates that it's an intentionally added PFAS. The overarching question of proving it's there or not and improving the intent of being intentionally added makes it a complicated question to answer whether or not it should be banned.

Q: Mark Hayden - If it's not intentional, it must be accidental. How do you get there?

A: Rachel Simon - There ends up being residual PFAS that ends up in the end products. Some of the manufactures might have a say in informing whereas others are not aware of them.

A: Paty Dillon – In the Toxic and Packaging Clearinghouse, their definition of intentionally added was intentionally adding it to the product to give a characteristic or function to a product. The process chemicals weren't considered intentionally added to the product.

Q: Mark Hayden – Why wouldn't total fluorine be a proxy for PFAS content?

A: Rachel Simon – There are uses of fluorine that are not PFAS making it not organic fluorine. If we use fluorine as a proxy, it will come up in the assessment and then you need to figure out what to do with that. The flip side is that these issues become complicated. The EPA conducted a study that showed in some instances, fluorine can transform into PFAS residuals. This continues to make it the best proxy, because it could lead to the formation of PFAS, even though that was not intentional.

Q: Boris Arratia – What would you think would be good policy recommendations that this subcommittee could explore for GSA?

A: Adina Torberntsson – Having an eco-label for products overseen by the EPA could simplify the government's procurement process and reduce harmful substances like

PFAS. They haven't adopted a firm policy on PFAS yet but have looked into eco-labels for certain products. The policy approach could either focus on reducing or eliminating substances, depending on the situation.

Q: Boris Arratia - How can the subcommittee tackle low-hanging fruit or make a big impact based on your experience in your ecosystem?

A: Adina Torberntsson – It would be good to see if the policy should focus on reducing or eliminating substances, as well as evaluating the feasibility of each approach. It's important to look at which market or product category would have a more successful impact.

A: Patricia Dillon – Look at identifying areas of greatest use and impact of PFAS and determine if they are already covered by existing initiatives. If not, they could influence these areas through purchasing power or other means.

A: Rachel Simon – Consider areas where organizations are making progress and focus on those that are further along in addressing the issue.

Q: Nigel Stephens – Have you had conversations with the SBA Office of Advocacy to address the potential regulatory impact on smaller businesses?

A: Rachel Simon – We do acknowledge the importance of considering the impact on small businesses. We have these optional criteria to consider small and medium sized enterprises. We are trying to leverage the work of the bigger organization to move the industry forward which could benefit the industry as a whole.

Public Engagement

Jennifer Savage manages the Surfrider Foundation's Plastic Pollution Initiative. She inquired about the types of mandates that might result from the recent recommendations, particularly in Section 6 related to plastics. She wanted to know if there would be any regulatory mandates in addition to recommendations. She asked if there was information available regarding which sections of governance would be the first to implement these recommendations and what the expected timeline for implementation might be.

Closing Remarks


Boris reminded the subcommittee of the special scheduled meeting on September 21st that will involve the full committee. The discussion will include comments, presentation, committee deliberation, and a vote on recommended actions to be taken regarding the FAR issue.

Luke Bassis thanked the group for their participation.

Adjournment

Boris Arratia adjourned the meeting at 5:00 P.M. EST.

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.

DocuSigned by:

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2/15/2024

Luke Bassis
Co-Chairperson
GAP FAC Policy & Practice Subcommittee

Former Chair, Steven Schooner was succeeded by Luke Bassis on September 28, 2023.