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Parent topic: PGI Defense Federal Acquisition Regulation

PGI 245.1 - GENERAL

PGI 245.102 RESERVED

PGI 245.102-70 Policy.

(1) A basic principle of the Federal Acquisition Regulations System is that, upon contract award, contractors bring all the necessary organization, experience, accounting and operational controls,

property, and technical skills, or the ability to obtain them (reference FAR 9.104-1 (e), (f), and (g) of General Standards). Therefore, upon contract award, responsible contractors should have the means to provide effective and efficient stewardship of Government property.

(2) Government property, as defined at FAR 45.101, must be contractually accountable to a single contract and only one contract at a time. This requirement applies to both Government-furnished property and contractor-acquired property. Although accountable to only one contract at a time, contract terms and conditions may allow Government property to be used on other contracts (see FAR 52.245-9, Use and Charges).

PGI 245.103 General.

PGI 245.103-70 Furnishing Government property to contractors.

(1) The requiring activity (project or program manager, or purchase request generator), as part of its responsibility for acquisition planning (FAR part 7, Acquisition Planning), is the decision point as to whether or not to furnish property to contractors. The basis for any decision to provide Government property shall be documented by the requiring activity and provided to the contracting officer. Such documentation is not required when contractors are furnished property for repair, modification, or overhaul under a contract.

(2) Prior to furnishing Government property to the contractor, the contracting officer shall ensure that each of the requirements of FAR 45.102 are addressed as follows, and documented in the contracting file—

(i) *Element 1: In the Government's best interest.* Discussion should be specific, factual, and where necessary, address actual or projected dollars and percentages. Merely selecting one or two objectives supported by a general, perfunctory discussion does not address this element satisfactorily. Discussion should address the following factors:

(A) Economy – Furnishing Government property is the lowest cost or price alternative.

(B) Standardization – There is a critical need for precise replication.

(C) Security – Government property is needed due to national security issues/concerns.

(D) Expedite production – Government property is crucial to achieving timely or accelerated delivery of a supply item or service.

(E) Scarcity – The Government can obtain scarce items, or is the only source of property necessary for successful execution of a contract.

(F) Maintain the industrial base – Government property is needed to ensure future capability to obtain a particular supply item or service.

(G) Contract type – Government property will enable the Government to obtain a more favorable contract type.

(ii) *Element 2*: *Overall benefit.*Demonstrate that the overall benefit to the acquisition significantly outweighs the increased cost of administration, including property disposal.

(A) Property in the hands of contractors drives program costs. Therefore, in order to make the case that providing Government property to the contractor is worthwhile, the associated costs must be considered and the business decision justified. The costs of Government property removal and disposal, including demilitarization and disposal of environmentally-regulated property, must be included.

(B) Costs must be either less than what the contractor might otherwise incur, or the demonstrated benefit to the Government must outweigh these additional contract costs.

(iii) *Element 3: Government assumption of risk.* Demonstrate that providing the property does not substantially increase the Government's risk.

(A) Risk must be discussed and documented. A risk analysis is warranted to demonstrate that the Government is not substantially increasing its risk. For example, when furnishing Government property, the Government is ordinarily responsible for suitability of use, timely delivery, and replacement of defective Government property.

(B) Other risks may need to be considered, discussed, and documented.

(iv) *Element 4: Government requirements cannot otherwise be met.* Document why the furnishing of Government property is critical and significant to meeting acquisition plan objectives.

PGI 245.103-71 Transferring Government property accountability.

(1) Use only the Standard Form 30 to execute transfers of Government property accountability between existing contracts. No other forms or documents, such as the DD Form 1149, Requisition and Invoice/Shipping Document, are authorized for the transfer of Government property accountability from one contract to another.

(2) Modifications for the transfer of Government property accountability shall:

(i) Use the Government-furnished property (GFP) attachment prescribed at PGI 245.103-72 .

(ii) Incorporate FAR clauses 52.245-1, Government Property, and 52.245-9, Use and Charges, and the associated DFARS clauses (see 245.107, Contract clauses) to the extent that the gaining contract lacks the required clauses.

PGI 245.103-72 Government-furnished property attachments to solicitations and awards.

(a) When Government-furnished property (GFP) is anticipated, create the GFP attachment in the GFP module of the Procurement Integrated Enterprise Environment (PIEE) at https://piee.eb.mil/piee-landing to—

(1) Specify the required GFP data elements; and

(2) Identify GFP serially-managed items, GFP nonserially-managed items, and GFP items that may be requisitioned from the DoD supply system by the contractor; and

(3) Accomplish the electronic transmission of the GFP attachment to the contract in the Electronic Data Access application in the PIEE.

(b) For more information on the GFP attachments, see https://dodprocurementtoolbox.com/site-pages/gfp-attachments.]

PGI 245.103-73 Government property under sustainment contracts.

(1) Sustainment contracts, including those for performance-based logistics, sustainment support, contractor logistics support, life-cycle product support, and weapon systems product support (see 10 U.S.C. 4324(d)), may require the contractor to hold or manage Government inventory. In such cases, regularly scheduled (typically, semiannually) inventory reporting from the contractor is required to ensure that inventory levels meet program requirements and Government inventory in excess of authorized amounts is identified. The requiring activity is responsible for providing the contracting officer with reporting requirements for Government inventory. See the Data Item Description DI-PSSS-80727A, Government Furnished Material (GFM) by National Stock Number, and the instructions for completing the DD Form 1423 Contract Data Requirements List (CDRL) for inventory reporting requirements on sustainment contracts available at http://dodprocurementtoolbox.com/site-pages/gfp-resources.

(2) During acquisition planning, pricing contracts, exercising options, and assessing past performance, contracting officers should review the requiring activity's assessment of the information generated by the inventory reporting requirements.

(3) In some circumstances, under fixed-price sustainment contracts, contract deliverables consist of non-hardware items, such as operational readiness rate goals or mean time between failures of a system. In order to meet these deliverables, contractors are required to provide certain property items to the Government. In such cases, the contract does not include specific delivery line items requiring formal delivery of the property. By extension, the Government will not have title to the property at the time the contractor provides the property. In such cases, title to the property passes to the Government upon Government acceptance (as defined in FAR 46.101) of the items at the destination stated in the contract. Contracting officers shall ensure that the contract—

(i) Clearly defines how and when acceptance will be performed; and

(ii) Includes applicable requirements for quality assurance, part marking, anti-counterfeiting, or other requirement for the delivery of the property.

PGI 245.103-74 Contracting office responsibilities.

(1) Prepare the GFP attachments in accordance with the procedures in PGI245.103 -72.

(2) The following require a contract modification and an update to the GFP attachment in the GFP module of the PIEE to create a consolidated, conformed list of property to be contractually provided under the contract.

(i) Any change to the mandatory fields of the GFP attachment (see PGI 245.103-72).

(ii) Addition or deletion of any GFP or anticipated GFP under the contract.

(iii) Transfer of GFP accountability between existing contracts (see PGI 245.103-71).

(iv) Delivery and Government acceptance of contractor-acquired property when retained by the

contractor for use under a contract (see PGI 245.402-71).

(v) Substitution of GFP for previously furnished GFP, GFP to be furnished, or property to be acquired by the contractor for the Government under the contract.

(vi) Withdrawal of authority for contractor use of GFP.

(3) Include in applicable solicitations and contracts the CDRL provided by the requiring activity for reporting Government inventory held under sustainment contracts (see PGI 245.103-73).

PGI 245.105 Contractors property management system compliance.

(d) *Disposition of findings*.

(2) *Initial determination*.

(ii)(A) Within 30 days of receiving the report, if the contracting officer makes a determination that there is a material weakness, the contracting officer should provide an initial determination of material weaknesses and a copy of the report to the contractor and require the contractor to submit a written response.

(C) *Evaluation of contractor's response*. Within 30 days of receiving the contractor’s response, the contracting officer, in consultation with the auditor or cognizant functional specialist, should evaluate the contractor’s response and make a final determination.

(3) *Final determination*.

(ii)(A) *Monitoring contractor's corrective action*. The contracting officer, with the assistance of the auditor, shall monitor the contractor's progress in correcting material weaknesses and deficiencies. If the contractor fails to make adequate progress, the contracting officer shall take whatever action is necessary to ensure that the contractor corrects the weaknesses and deficiencies. Actions the contracting officer may take include: withdraw ing or withholding approval of the system; bringing the issue to the attention of higher level management; http://www.acq.osd.mi/dpap/dars/dfars/html/current/252242.htm#252.242-7005 recommending non-award of potential contracts, as applicable; and for material weaknesses, implementing or increasing the withholding in accordance with 252.242-7005, Contractor Business Systems.

(B) *Correction of* material weaknesses.

(*1*) When the contractor notifies the contracting officer that the contractor has corrected the material weaknesses, the contracting officer shall request that the auditor review the correction to determine if the weaknesses and deficiencies have been resolved.

(*2*) The contracting officer shall determine if the contractor has corrected the weaknesses and deficiencies.

(*3*) If the contracting officer determines the contractor has corrected the weaknesses and deficiencies, send the contracting officer's notification to the auditor; payment office; appropriate action officers responsible for reporting past performance at the requiring activities; and each contracting and contract administration office having substantial business with the contractor as applicable.

PGI 245.2 -SOLICITATION AND EVALUATION PROCEDURES

PGI 245.201 Solicitation.

PGI 245.201-70 Security classification.

Classified contracts are not exempt from including GFP attachments solely because the contracts are classified.

PGI 245.4 -TITLE TO GOVERNMENT PROPERTY

PGI 245.402 Title to contractor-acquired property.

PGI 245.402-70 Policy.

Title vests in the Government for all property acquired or fabricated by the contractor in accordance with paragraph (e)(3) of the clause at FAR 52.245-1, Government Property. Oversight and visibility of contractor-acquired property (CAP) is accomplished through reviews and audits of contractor business systems, including—

(1) Accounting systems (see DFARS 242.75);

(2) Property management systems (see DFARS 245.105); and

(3) Material management and accounting systems (see DFARS 242.72).

PGI 245.402-71 Delivery of contractor-acquired property.

(1) The contractual transfer of accountability of CAP from one contract to another is prohibited. Only upon delivery under a line item can property be transferred to other contracts as Government-furnished property (GFP) (see PGI 245.103-71).

(2) Upon delivery and acceptance by the Government, and when retained by the contractor for use under a contract, the delivered CAP items become GFP and shall be added to the contract GFP attachment (see PGI 245.103-72).

(3) *Contractor-acquired property not anticipated at time of contract award.*

(i) For CAP not anticipated at the time of contract award, or not otherwise specified for delivery on an existing line item, the contracting officer shall direct delivery of the CAP items to the Government on a not separately priced (NSP) line item (e.g. contract line item, exhibit line item, etc.). Such items are typically identified through—

(A) Plant clearance in accordance with the clause at DFARS 252.245-7005 Management and

Reporting of Government Property., Management and Reporting of Government Property;

(B) Inventory reports provided by the contractor in accordance with FAR clause 52.245-1; or

(C) Other reporting requirements specified in the contract.

(ii) The contracting officer shall direct delivery of CAP on a line item as soon as the CAP item is identified, if—

(A) The value of the item meets or exceeds the capitalization threshold as identified in the memorandum issued jointly by the Under Secretary of Defense (USD) Comptroller and the USD (Acquisition and Sustainment) on 20 September 2013, entitled, "Elimination of Military Equipment Definition and Increase to Capitalization Thresholds for General Property, Plant and Equipment" (available at http://www.acq.osd.mil/pepolicy/pdfs/FinancialReportingGPPEMemo.pdf) or;

(B) The item is special tooling, special test equipment, or equipment designated for preservation and storage under a major defense acquisition program (reference: Section 815 of the National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417)).

(iii) Each NSP line item of CAP to be delivered to the Government shall include the following information:

Contractor-Acquired Property Delivery NSP Line Item

LI	Item Description/ Nomenclature	Type Designation	NSN	PIN	Quantity	Unit of Measure	Serial Number (UII)*	Unit Acquisition Cost	Date Placed in Service by the Contractor
x	x	As required	x	x	x	x	If known	x	x

*Contractor-acquired property items shall be marked as required by DFARS clause 252.211-7003.

(A) The value of any delivered CAP item shall be at the contractor provided fully burdened cost, i.e., normal or provisional burdens to the direct costs in accordance with the applicable disclosed accounting practices, including an appropriate amount for fee or profit (as reflected in the contract under which the estimate is prepared) in addition to the direct and indirect costs. This is consistent with DFARS 211.274-3, Policy for valuation, regarding unit acquisition cost.

(B) Unless otherwise noted by the contractor at the time of delivery to the Government, the placed-in-service date shall be the date of acquisition or, if fabricated, the date of completed manufacture.

PGI 245.6 -REPORTING, REUTILIZATION, AND DISPOSAL

PGI 245.602-70 Plant clearance procedures.

(1) Upon receipt of acceptable inventory schedules, the plant clearance officer (PLCO) shall assign a plant clearance case number using DD Form 1635 (or an automated equivalent) and establish a case file.

(2) The plant clearance case number shall be established using a three-part, 11-character number as follows:

(i) Part 1: DoD Activity Address Code (six-character alphanumeric code) assigned to the contract administration activity.

(ii) Part 2: Locally assigned four-character consecutive alphanumeric code, beginning each calendar year with “001” continuing as necessary through “zzz.” The fourth character is the last digit of the calendar year, e.g., “0013” for the first case of calendar year 2003.

(iii) Part 3: The 11th character is a single letter identifying the department or agency:

C-Army

Q-Navy

E-Air Force

L-Marine Corps

U-Defense Logistics Agency

N-*Defense* Threat Reduction Agency

M-National Geospatial-Intelligence Agency

S-NASA

D-Other DoD activities

O-Non-DoD activities

(3) The case file shall contain copies of all documents relevant to the case, e.g., correspondence, review board findings, anti-trust clearances, and reports.

(4) PLCOs will use DD Form 1638, Report of Disposition of Contractor Inventory, or an automated equivalent to report the disposition of contractor inventory. Do not include disposition actions transferred to other offices. Complete only the column total for each line of this report. The report is self-explanatory except—

(i) Line 1–insert totals from line 7 of the preceding report;

(ii) Line 2–insert net changes due to shortages, overages, errors, or withdrawals (other than purchases or retention at cost);

(iii) Line 3–insert total excess inventory reported by contractors during the report period;

(iv) Line 5–insert total plant clearance cases completed during the report period. Do not report cases as completed until all property has been disposed. Acquisition cost must equal line 19;

(v) Line 8–insert amount retained or withdrawn at full cost;

(vi) Line 9–insert acquisition cost in the “Acquisition Cost” column and insert acquisition cost less handling, transportation, or restocking charges, in the “Proceeds” column;

(vii) Line 10–insert acquisition cost of all transfers completed during the report period. On lines 10A through 10H, insert subtotals representing transfers to the agency indicated. Exclude amounts on lines 10A through 10H when computing line 19 totals;

(viii) Line 12–insert the acquisition cost and gross proceeds;

(ix) Lines 14 and 15–used to identify and report other transactions, and

(x) Line 18–insert section II totals. Line 18 acquisition cost must equal acquisition cost on line 5.

(5) The PLCO will prepare quarterly reports for periods ending March 31, June 30, September 30, and December 31. Activities preparing manual reports will submit duplicate reports to the headquarters of the administering activity within 10 working days after the close of the report period (Report Control Symbol DD(I&L)(Q)1430 applies).

(6) Upon completion of the plant clearance action, the PLCO shall prepare a Standard Form 1424, Inventory Disposal Report. The form is self-explanatory except–

(i) Item 12–insert net change due to shortages, overages, errors, pricing, or withdrawals, etc. Explain in item 18, Remarks;

(ii) Item 14–insert amount contractor is retaining or purchasing at acquisition cost;

(iii) Item 15–insert acquisition cost and net credit (full credit less approved handling, transportation, and restocking charges for items returned to supplier);

(iv) Item 16–insert the acquisition cost for all transfers accomplished. For lines 16A and 16B, insert subtotals as indicated;

(v) Item 18–insert acquisition cost and gross proceeds;

(vi) Items 20 and 21–use to identify and report transactions not otherwise identified, such as items shipped to a Government precious metals reclamation activity, etc. Further explanation may be provided in item 26, Remarks, if necessary;

(vii) Item 26–show the specific disposition of proceeds reported in items 14, 15, and 18. Also, indicate amounts deleted for specific contractor claims, or applied as a credit to the claim; and

(viii) Item 27–total dispositions must equal the amounts on line 13, and must reflect all disposal actions within the case.

(7) When contractor inventory with an estimated fair market value of $3 million or more, or any patents, processes, techniques, or inventions, regardless of cost, are sold or otherwise disposed of to private interests, notify the Attorney General and the General Services Administration (GSA) of the proposed terms and conditions of disposal. Submit the following information to the Department of Justice and GSA through contract administration agency channels (Report Control Symbol DD-ACQ(AR)1492 applies):

(i) Location and description of property (specify tonnage if scrap).

(ii) Proposed sale price (explain if the proposed purchaser was not highest bidder).

(iii) Acquisition cost of property.

(iv) Manner of sale, indicating whether by—

(A) Sealed bid (specify number of bidders solicited and bids received);

(B) Auction or spot bid (state how sale was advertised);

(C) Negotiation (explain why property was not sold competitively);

(D) Proposed purchaser's name, address, and trade name (if any) under which proposed purchaser is doing business;

(E) If a corporation, provide state and date of incorporation, and name and address of—

(*1*) Each holder of 25 percent or more of the corporate stock;

(*2*) Each subsidiary; and

(*3*) Each company under common control with proposed purchaser.

(*4*) If a partnership, provide—

(a) Name and address of each partner; and

(b) Other business connections of each partner;

(c) Nature of proposed purchaser's business (indicate whether its scope is local, statewide, regional, or national);

(d) Estimated dollar volume of sales of proposed purchaser (as of latest calendar or fiscal year);

(e) Estimated net worth of proposed purchaser; and

(f) Intended use of property.

(8) Do not dispose of property until the Attorney General determines whether the proposed disposal action would tend to create or maintain a situation inconsistent with the antitrust laws.

(9) If the Attorney General advises that the proposed disposition is inconsistent with the antitrust laws, do not continue with the proposed disposition.

(10) Under noncompetitive sales, the prospective purchaser shall be informed that final consummation of the sale is subject to determination by the Attorney General.

(11) The disposal of contractor inventory is the responsibility of the contractor. However, the disposal/sales services of the Defense Logistics Agency (DLA) Disposition Services or a Federal agency, e.g., GSA, may be used in unusual or compelling circumstances, as determined by the contracting officer to be in the best interest of the Government, and provided DLA Disposition Services/the agency agrees. In such cases, disposal/sales services may be provided on a reimbursable basis, with any sale proceeds credited in compliance with FAR 45.604-4, Proceeds from sales of surplus property. If sale services are needed, the plant clearance officer will document the reasons in the case file and make arrangements directly with DLA Disposition Services, GSA, other Federal agency, or third-party. The arrangements will include a requirement to return all proceeds to the plant clearance officer for crediting in compliance with FAR 45.604-4.

(12) The PLCO shall, prior to sales contract award—

(i) Ensure the prospective buyer is not an ineligible transferee, including those on found in the System for Award Management (SAM) Exclusions. For additional information see https://www.acquisition.gov;

(ii) Cross-reference contractor inventory to a National Stock Number and Demilitarization code. For additional information, see FED LOG or WEBFLIS at http://www.dlis.dla.mil/webflis/ and the current edition of the DoD Demilitarization Manual at http://www.dtic.mil/whs/directives;

(iii) Consult with the DoD Demilitarization (Demil)/Trade Security Control (TSC) Program office to determine if the contractor inventory can be sold to the public; and if a TSC assessment of the prospective buyer is required. Reference DoD Instruction 2030.08, Implementation of Trade Security Controls (TSC) for Transfers of DoD U.S. Munitions List (USML) and Commerce Control List (CCL) Personal Property to Parties Outside DoD Control; and Defense Demilitarization Manual, DoD 4160.28-M;

(iv) If TSC is required, provide the DoD Demil/TSC Program office with a completed DLA Form 1822 End-Use Certificate (EUC) for the prospective buyer. Note: TSC assessments/EUCs are typically not required for scrap sales; and

(v) Upon TSC clearance (if required) of the prospective buyer, authorize the contractor to complete the sale, as applicable.

(13) To the extent that demilitarization, mutilation, or destruction is required, the PLCO may authorize the contractor to perform such action as follows:

(i) Demilitarization, mutilation, or destruction by the contractor or buyer as a condition of sale;

(ii) Shipment to a DoD disposal activity (contingent upon packing, crating, handling, and transportation funding), or

(iii) Such other actions as are included in the terms and conditions of the contract.

(14) The PLCO shall use the DD Form 1641, Disposal Determination Approval, or electronic equivalent to record the rationale for the following disposal determinations:

(i) Downgrade useable property to scrap.

(ii) Abandonment or destruction.

(iii) Noncompetitive sale of surplus property.

(iv) Other disposal actions.

(15) The PCLO shall use the SF 97, Certificate of Release of a Motor Vehicle (Agency Record Copy) for transfers, donations, and sales of motor vehicles and furnish a copy to the purchaser.

(16) Security assistance transfers or foreign military sales shall be conducted in accordance with the terms and conditions of the contract and consistent with DoD 5105.38-M Security Assistance Management Manual.

(17) The plant clearance officer may send a notice of proposed surplus sale to (http://www.sam.gov) if the items have potentially high public interest.