

identifying the cost impact adjustment necessitated by the deficient purchasing system;

(iii) Provide for the contracting officer to adjust the contract price unilaterally if the contractor fails to submit the supplemental proposal; and

(iv) Provide that failure of the Government and the contractor to agree to the price adjustment shall be a dispute under the Disputes clause.

[76 FR 28871, May 18, 2011, as amended at 77 FR 11366, Feb. 24, 2012]

244.305-71 Contract clause.

Use the clause at 252.244-7001, Contractor Purchasing System Administration, in solicitations and contracts containing the clause at FAR 52.244-2, Subcontracts.

[76 FR 28871, May 18, 2011]

Subpart 244.4—Subcontracts for Commercial Items and Commercial Components

244.402 Policy requirements.

(a) Contractors shall determine whether a particular subcontract item meets the definition of a commercial item. This requirement does not affect the contracting officer's responsibilities or determinations made under FAR 15.403-1(c)(3). Contractors are expected to exercise reasonable business judgment in making such determinations, consistent with the guidelines for conducting market research in FAR part 10.

[67 FR 38023, May 31, 2002]

244.403 Contract clause.

Use the clause at 252.244-7000, Subcontracts for Commercial Items, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items.

[78 FR 37989, June 25, 2013]

PART 245—GOVERNMENT PROPERTY

Subpart 245.1—General

Sec.
245.101 Definitions.

- 245.102 Policy.
- 245.103-70 Furnishing Government property to contractors.
- 245.103-71 Transferring Government property accountability.
- 245.103-72 Government-furnished property attachments to solicitations and awards.
- 245.103-73 Contracting office responsibilities.
- 245.104 Responsibility and liability for Government property.
- 245.105 Contractor's property management system compliance.
- 245.107 Contract clause.

Subpart 245.2—Solicitation and Evaluation Procedures

- 245.201 Solicitation.
- 245.201-70 Definitions.
- 245.201-71 Security classification.

Subpart 245.3—Authorizing the Use and Rental of Government Property

- 245.302 Contracts with foreign governments or international organizations.

Subpart 245.4—Title to Government Property

- 245.402 Title to contractor-acquired property.
- 245.402-70 Policy.
- 245.402-71 Delivery of contractor-acquired property.

Subpart 245.5—Support Government Property Administration

- 245.570 Storage at the Government's expense.

Subpart 245.6—Reporting, Reutilization, and Disposal

- 245.602 Reutilization of Government property.
- 245.602-1 Inventory disposal schedules.
- 245.602-3 Screening.
- 245.602-70 Plant clearance procedures.
- 245.604 Disposal of surplus property.
- 245.604-3 Sale of surplus property.

Subpart 245.70—Plant Clearance Forms

- 245.7101 Forms.
- 245.7001 Forms.
- 245.7001-1 Standard Form 97, Certificate of Release of a Motor Vehicle (Agency Record Copy).
- 245.7001-2 DD Form 1149, Requisition and Invoice Shipping Document.
- 245.7001-3 DD Form 1348-1, DoD Single Line Item Release/Receipt Document.
- 245.7001-4 DD Form 1640, Request for Plant Clearance.

245.101

245.7001-5 DD Form 1641, Disposal Determination/Approval.

245.7001-6 Defense Logistics Agency DLA Form 1822, End Use Certificate.

AUTHORITY: 41 U.S.C. 1303 and 48 CFR chapter 1.

SOURCE: 56 FR 36448, July 31, 1991, unless otherwise noted.

Subpart 245.1—General

SOURCE: 74 FR 37647, July 29, 2009, unless otherwise noted.

245.101 Definitions.

Mapping, charting, and geodesy property, as used in this subpart, is defined in the clause at 252.245-7000, Government-Furnished Mapping, Charting, and Geodesy Property.

245.102 Policy.

(See the policy guidance at PGI 245.102-70.)

(1) *Mapping, charting, and geodesy property*. All Government-furnished mapping, charting, and geodesy (MC&G) property is under the control of the Director, National Geospatial Intelligence Agency.

(i) MC&G property shall not be duplicated, copied, or otherwise reproduced for purposes other than those necessary for contract performance.

(ii) Upon completion of contract performance, the contracting officer shall—

(A) Contact the Director, National Geospatial Intelligence Agency, 4600 Sangamore Road, Bethesda, MD 20816-5003, for disposition instructions;

(B) Direct the contractor to destroy or return all Government-furnished MC&G property not consumed during contract performance; and

(C) Specify the destination and means of shipment for property to be returned to the Government.

(2) *Government supply sources*. When a contractor will be responsible for preparing requisitioning documentation to acquire Government-furnished property from Government supply sources, include in the contract the requirement to prepare the documentation in accordance with DoD 4000.25-1-M, Military Standard Requisitioning and Issue Procedures (MILSTRIP). Copies are

48 CFR Ch. 2 (10-1-13 Edition)

available from the address cited at PGI 251.102.

(3) *Acquisition and management of industrial resources*. See Subpart 237.75 for policy relating to facilities projects.

(4) *Government-furnished property identification*.

(i) It is DoD policy that Government-furnished property be tagged, labeled, or marked based on DoD marking standards (MIL Standard 130) or other standards, when the requiring activity determines that such items are subject to serialized item management (serially-managed items). The list of Government-furnished property subject to serialized item management will be identified in the contract in accordance with PGI 245.201-71, GFP attachments to solicitations and awards.

(ii) *Exceptions*. The Contractor will not be required to tag, label, or mark—

(A) Government-furnished property that was previously tagged, labeled, or marked;

(B) Items, as determined by the head of the agency, that are to be used to support a contingency operation; or to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack;

(C) Items for which a determination and findings has been executed concluding that it is more cost effective for the Government requiring activity to assign, mark, and register the unique item identification after delivery of an item acquired from a small business concern or a commercial item acquired under FAR part 12 or part 8.

(1) The determination and findings shall be executed by—

(i) The Component Acquisition Executive for an Acquisition Category (ACAT) I program; or

(ii) The head of the contracting activity for all other programs.

(2) A copy of the executed determination and findings shall be provided to the DoD Unique Item Identification Policy Office at this address: OUSD (AT&L) DPAP/Program Development and Implementation, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301-3060; or by facsimile to 703-602-6047.

(D) Items that are contractor-acquired property;

(E) Property under any statutory leasing authority;

(F) Property to which the Government has acquired a lien or title solely because of partial, advance, progress, or performance-based payments;

(G) Intellectual property or software; or

(H) Real property.

(5) *Reporting loss of Government property.* The Defense Contract Management Agency (DCMA) eTools software application is the DoD data repository for reporting loss of Government property in the possession of contractors. The requirements and procedures for reporting loss of Government property to eTools are set forth in the clause at 252.245-7002, Reporting Loss of Government Property, prescribed at 245.107.

[74 FR 37647, July 29, 2009, as amended at 76 FR 3537, Jan. 20, 2011; 76 FR 6006, 6008, Feb. 2, 2011]

245.103-70 Furnishing Government property to contractors.

Follow the procedures at PGI 245.103-70 for furnishing Government property to contractors.

[76 FR 3537, Jan. 20, 2011. Redesignated and amended at 77 FR 76937, Dec. 31, 2012]

245.103-71 Transferring Government property accountability.

Follow the procedures at PGI 245.103-71 for transferring Government property accountability.

[76 FR 3537, Jan. 20, 2011. Redesignated and amended at 77 FR 76937, Dec. 31, 2012]

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

When performance will require the use of Government-furnished property, contracting officers shall use the fillable electronic “Requisitioned Government Furnished Property” and/or “Scheduled Government Furnished Property” formats as attachments to solicitations and awards. See *PGI 245.103-72* for links to the formats and procedures for preparing Government-furnished property attachments to solicitations and awards.

[77 FR 76937, Dec. 31, 2012, as amended at 78 FR 13544, Feb. 28, 2013]

245.103-73 Contracting office responsibilities.

See *PGI 245.103-73* for contracting office responsibilities.

[77 FR 76937, Dec. 31, 2012]

245.104 Responsibility and liability for Government property.

In addition to the contract types listed at FAR 45.104, contractors are not held liable for loss of Government property under negotiated fixed-price contracts awarded on a basis other than submission of certified cost or pricing data.

[76 FR 71826, Nov. 18, 2011]

245.105 Contractors’ property management system compliance.

(a) *Definitions*—

(1) *Acceptable property management system* and *property management system* are defined in the clause at 252.245-7003, Contractor Property Management System Administration.

(2) *Significant deficiency* is defined in the clause at 252.245-7003, Contractor Property Management System Administration.

(b) *Policy.* The cognizant contracting officer, in consultation with the property administrator, shall—

(1) Determine the acceptability of the system and approve or disapprove the system; and

(2) Pursue correction of any deficiencies.

(c) In evaluating the acceptability of a contractor’s property management system, the contracting officer, in consultation with the property administrator, shall determine whether the contractor’s property management system complies with the system criteria for an acceptable property management system as prescribed in the clause at 252.245-7003, Contractor Property Management System Administration.

(d) *Disposition of findings*—(1) *Reporting of findings.* The property administrator shall document findings and recommendations in a report to the contracting officer. If the property administrator identifies any significant property system deficiencies, the report

shall describe the deficiencies in sufficient detail to allow the contracting officer to understand the deficiencies.

(2) *Initial determination.* (i) The contracting officer shall review findings and recommendations and, if there are no significant deficiencies, shall promptly notify the contractor, in writing, that the contractor's property management system is acceptable and approved; or

(ii) If the contracting officer finds that there are one or more significant deficiencies (as defined in the clause at 252.245–7003, Contractor Property Management System Administration) due to the contractor's failure to meet one or more of the property management system criteria in the clause at 252.245–7003, the contracting officer shall—

(A) Promptly make an initial written determination on any significant deficiencies and notify the contractor, in writing, providing a description of each significant deficiency in sufficient detail to allow the contractor to understand the deficiency;

(B) Request the contractor to respond, in writing, to the initial determination within 30 days and;

(C) Evaluate the contractor's response to the initial determination, in consultation with the property administrator, and make a final determination.

(3) *Final determination.* (i) The contracting officer shall make a final determination and notify the contractor, in writing, that—

(A) The contractor's property management system is acceptable and approved, and no significant deficiencies remain, or

(B) Significant deficiencies remain. The notice shall identify any remaining significant deficiencies, and indicate the adequacy of any proposed or completed corrective action. The contracting officer shall—

(1) Request that the contractor, within 45 days of receipt of the final determination, either correct the deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the deficiencies;

(2) Disapprove the system in accordance with the clause at 252.245–7003,

Contractor Property Management System Administration; and

(3) Withhold payments in accordance with the clause at 252.242–7005, Contractor Business Systems, if the clause is included in the contract.

(ii) Follow the procedures relating to monitoring a contractor's corrective action and the correction of significant deficiencies in PGI 245.105.

(e) *System approval.* The contracting officer shall promptly approve a previously disapproved property management system and notify the contractor when the contracting officer determines, in consultation with the property administrator, that there are no remaining significant deficiencies.

(f) *Contracting officer notifications.* The cognizant contracting officer shall promptly distribute copies of a determination to approve a system, disapprove a system and withhold payments, or approve a previously disapproved system and release withheld payments to the auditor; payment office; affected contracting officers at the buying activities; and cognizant contracting officers in contract administration activities.

[76 FR 28872, May 18, 2011]

245.107 Contract clauses.

(1) Use the clause at 252.245–7000, Government-Furnished Mapping, Charting, and Geodesy Property, in solicitations and contracts when mapping, charting, and geodesy property is to be furnished.

(2) Use the clause at 252.245–7001, Tagging, Labeling, and Marking of Government-Furnished Property, in solicitations and contracts that contain the clause at FAR 52.245–1, Government Property.

(3) Use the clause at 252.245–7002, Reporting Loss of Government Property, in solicitations and contracts that contain the clause at FAR 52.245–1, Government Property.

(4) Use the clause at 252.245–7003, Contractor Property Management System Administration, in solicitations and contracts containing the clause at FAR 52.245–1, Government Property.

(5) Use the clause at 252.245–7004, Reporting, Reutilization, and Disposal, in

solicitations and contracts that contain the clause at FAR 52.245-1, Government Property.

(6) For negotiated fixed-price contracts awarded on a basis other than submission of certified cost or pricing data for which Government property is provided, use the clause at FAR 52.245-1, Government Property, without its Alternate I.

[76 FR 6006, 6008, Feb. 2, 2011, as amended at 76 FR 28872, May 18, 2011; 76 FR 52142, Aug. 19, 2011; 76 FR 71826, Nov. 18, 2011]

Subpart 245.2—Solicitation and Evaluation Procedures

SOURCE: 76 FR 3537, Jan. 20, 2011, unless otherwise noted.

245.201 Solicitation.

245.201-70 Definitions.

See the definitions at PGI 245.201-70.

245.201-71 Security classification.

Follow the procedures at PGI 245.201-71 for security classification.

[76 FR 3537, Jan. 20, 2011. Redesignated and amended at 77 FR 76937, Dec. 31, 2012]

Subpart 245.3—Authorizing the Use and Rental of Government Property

SOURCE: 74 FR 37647, July 29, 2009, unless otherwise noted.

245.302 Contracts with foreign governments or international organizations.

(1) *General.*

(i) *Approval.* A contractor may use Government property on work for foreign governments and international organizations only when approved in writing by the contracting officer having cognizance of the property. The contracting officer may grant approval, provided—

(A) The use will not interfere with foreseeable requirements of the United States;

(B) The work is undertaken as a DoD foreign military sale; or

(C) For a direct commercial sale, the foreign country or international organization would be authorized to con-

tract with the department concerned under the Arms Export Control Act.

(ii) *Use charges.*

(A) The Use and Charges clause is applicable on direct commercial sales to foreign governments or international organizations.

(B) When a particular foreign government or international organization has funded the acquisition of property, do not assess the foreign government or international organization rental charges or nonrecurring recoupments for the use of such property.

(2) *Special tooling and special test equipment.*

(i) DoD normally recovers a fair share of nonrecurring costs of special tooling and special test equipment by including these costs in its calculation of the nonrecurring cost recoupment charge when major defense equipment is sold by foreign military sales or direct commercial sales to foreign governments or international organizations. “Major defense equipment” is defined in DoD Directive 2140.2, Recoupment of Nonrecurring Costs on Sales of U.S. Items, as any item of significant military equipment on the United States Munitions List having a nonrecurring research, development, test, and evaluation cost of more than \$50 million or a total production cost of more than \$200 million.

(ii) When the cost thresholds in paragraph (2)(i) of this section are not met, the contracting officer shall assess rental charges for use of special tooling and special test equipment pursuant to the Use and Charges clause if administratively practicable.

(3) *Waivers.*

(i) Rental charges for use of U.S. production and research property on commercial sales transactions to the Government of Canada are waived for all commercial contracts. This waiver is based on an understanding wherein the Government of Canada has agreed to waive its rental charges.

(ii) Requests for waiver or reduction of charges for the use of Government property on work for foreign governments or international organizations shall be submitted to the contracting officer, who shall refer the matter through contracting channels. In response to these requests, approvals

245.402

may be granted only by the Director, Defense Security Cooperation Agency, for particular sales that are consistent with paragraph (1)(i)(C) of this section.

Subpart 245.4—Title to Government Property

SOURCE: 76 FR 3537, Jan. 20, 2011, unless otherwise noted.

245.402 Title to contractor-acquired property.

245.402-70 Policy.

Review the guidance and follow the procedures at PGI 245.402-70 with regard to recording and financial/accounting treatment of contractor-acquired property.

245.402-71 Delivery of contractor-acquired property.

Follow the procedures at PGI 245.402-71 for the delivery of contractor-acquired property.

Subpart 245.5—Support Government Property Administration

SOURCE: 76 FR 52142, Aug. 19, 2011, unless otherwise noted.

245.570 Storage at the Government's expense.

All storage contracts or agreements shall be separately priced and shall include all costs associated with the storage.

Subpart 245.6—Reporting, Reutilization, and Disposal

SOURCE: 76 FR 52142, Aug. 19, 2011, unless otherwise noted.

245.602 Reutilization of Government property.

245.602-1 Inventory disposal schedules.

For termination inventory, plant clearance officers shall verify inventory schedules, either directly or through appropriate technical personnel, to determine the following:

- (a) *Allocability.*

48 CFR Ch. 2 (10-1-13 Edition)

(1) Review contract requirements, delivery schedules, bills of material, and other pertinent documents to determine whether schedules include property that—

(i) Is appropriate for use on the contract; or

(ii) Exceeds the quantity required for completion of the contract, but could be diverted to other commercial work or Government use.

(2) Review the contractor's—

(i) Recent purchases of similar material;

(ii) Plans for current and scheduled production;

(iii) Stock record entries; and

(iv) Bills of material for similar items.

(b) *Quantity.* Take measures to provide assurance that available inventory is in accordance with quantities listed on the inventory schedules. Quantities may be verified by actual item count, acceptance of labeled quantities in unopened/sealed packages, scale counts, or other appropriate methods.

(c) *Condition.* Ensure that the physical condition of the property is reasonably consistent with the Federal Condition Code supplied by the contractor.

245.602-3 Screening.

Property will be screened DoD-wide, including the contracting agency, requiring agency, and, as appropriate, the General Services Administration. The requiring agency shall have priority for retention of listed items. All required screening must be completed before any sale of contractor inventory, including contractor inventory in overseas locations (foreign excess personal property) can take place. Upon request of the prospective reutilization, transfer, donation, or sales customer, the plant clearance officer shall arrange for inspection of property at the contractor's plant in such a manner as to avoid interruption of the contractor's operations, and consistent with any security requirements.

245.602-70 Plant clearance procedures.

Follow the procedures at PGI 245.602-70 for establishing and processing a plant clearance case.

245.604 Disposal of surplus property.

245.604-3 Sale of surplus property.

(a) Plant clearance officers shall determine a best value sales approach (formal or informal sales), to include due consideration for costs, risks, and benefits, e.g., potential sales proceeds.

(b) *Informal bid procedures.* The plant clearance officer may direct the contractor to issue informal invitations for bid (orally, telephonically, or by other informal media), provided—

- (1) Maximum practical competition is obtained;
- (2) Sources solicited are recorded; and
- (3) Informal bids are confirmed in writing.

(c) *Sale approval and award.* Plant clearance officers shall—

(1) Evaluate bids to establish that the sale price is fair and reasonable, taking into consideration—

- (i) Knowledge or tests of the market;
- (ii) Current published prices for the property;
- (iii) The nature, condition, quantity, and location of the property; and
- (iv) Past sale history for like or similar items;

(2) Approve award to the responsible bidder whose bid is most advantageous to the Government. The plant clearance officer shall not approve award to any bidder who is an ineligible transferee, as defined in 252.245-7004, Reporting, Reutilization, and Disposal; and

(3) Notify the contractor of the bidder to whom an award will be made within five working days from receipt of bids.

(d) *Noncompetitive sales.*

(1) Noncompetitive sales include purchases or retention at less than cost by the contractor. Noncompetitive sales may be made when—

- (i) The plant clearance officer determines that this method is essential to expeditious plant clearance; and
- (ii) The Government's interests are adequately protected.

(2) Noncompetitive sales shall be at fair and reasonable prices, not less than those reasonably expected under competitive sales.

(3) Conditions justifying noncompetitive sales are—

(i) No acceptable bids are received under competitive sale;

(ii) Anticipated sales proceeds do not warrant competitive sale;

(iii) Specialized nature of the property would not create bidder interest;

(iv) Removal of the property would reduce its value or result in disproportionate handling expenses; or

(v) Such action is essential to the Government's interests.

(e) Plant clearance officers shall consider any special disposal requirements such as demilitarization or trade security control requirements in accordance with DoDM 4160.28-M, Defense Demilitarization Manual, and DoDI 2030.08, Implementation of Trade Security Controls, respectively (See PGI 245.6.)]

Subpart 245.70—Plant Clearance Forms

245.7001 Forms.

Use the forms listed below in performance of plant clearance actions.

245.7001-1 Standard Form 97, Certificate of Release of a Motor Vehicle (Agency Record Copy).

Use for transfers, donations, and sales of motor vehicles. The contracting officer shall execute the SF 97 and furnish it to the purchaser.

245.7001-2 DD Form 1149, Requisition and Invoice Shipping Document.

Use for transfer and donation of contractor inventory.

245.7001-3 DD Form 1348-1, DoD Single Line Item Release/Receipt Document.

Use when authorized by the plant clearance officer.

245.7001-4 DD Form 1640, Request for Plant Clearance.

Use to request plant clearance assistance or transfer plant clearance.

245.7001-5 DD Form 1641, Disposal Determination/Approval.

Use to record rationale for the following disposal determinations:

- (a) Downgrade useable property to scrap.
- (b) Abandonment or destruction.

245.7001-6,

- (c) Noncompetitive sale of surplus property.
- (d) Other disposal actions.

245.7001-6, DLA Form 1822, End Use Certificate.

Use when directed by the plant clearance officer.

[56 FR 36448, July 31, 1991, as amended at 77 FR 52254, Aug. 29, 2012]

PART 246—QUALITY ASSURANCE

Subpart 246.1—General

- Sec.
- 246.101 Definitions.
- 246.102 Policy.
- 246.103 Contracting office responsibilities.

Subpart 246.2—Contract Quality Requirements

- 246.202 Types of contract quality requirements.
- 246.202-4 Higher-level contract quality requirements.
- 246.270 Safety of facilities, infrastructure, and equipment for military operations.
- 246.270-1 Scope.
- 246.270-2 Policy.
- 246.270-3 Exceptions.
- 246.270-4 Contract clause.

Subpart 246.3—Contract Clauses

- 246.370 Material inspection and receiving report.
- 246.371 Notification of potential safety issues.

Subpart 246.4—Government Contract Quality Assurance

- 246.401 General.
- 246.402 Government contract quality assurance at source.
- 246.404 Government contract quality assurance for acquisitions at or below the simplified acquisition threshold.
- 246.406 Foreign governments.
- 246.407 Nonconforming supplies or services.
- 246.408 Single-agency assignments of Government contract quality assurance.
- 246.408-70 Subsistence.
- 246.408-71 Aircraft.
- 246.470 Government contract quality assurance actions.
- 246.470-1 Assessment of additional costs.
- 246.470-2 Quality evaluation data.
- 246.471 Authorizing shipment of supplies.
- 246.472 Inspection stamping.

Subpart 246.5—Acceptance

- 246.504 Certificate of conformance.

48 CFR Ch. 2 (10-1-13 Edition)

Subpart 246.6—Material Inspection and Receiving Reports

- 246.601 General.

Subpart 246.7—Warranties

- 246.701 Definitions as used in this subpart.
- 246.704 Authority for use of warranties.
- 246.705 Limitations.
- 246.706 Warranty terms and conditions.
- 246.708 Warranties of data.
- 246.710 Solicitation provision and contract clauses.
- 246.710-70 Warranty attachment.

AUTHORITY: 41 U.S.C. 1303 and 48 CFR chapter 1.

SOURCE: 56 FR 36460, July 31, 1991, unless otherwise noted.

Subpart 246.1—General

246.101 Definitions.

Discipline Working Group, as used in this subpart, is defined in the clause at 252.246-7004, Safety of Facilities, Infrastructure, and Equipment for Military Operations.

[75 FR 66685, Oct. 29, 2010]

246.102 Policy.

Departments and agencies shall also—

(1) Develop and manage a systematic, cost-effective Government contract quality assurance program to ensure that contract performance conforms to specified requirements. Apply Government quality assurance to all contracts for services and products designed, developed, purchased, produced, stored, distributed, operated, maintained, or disposed of by contractors.

(2) Conduct quality audits to ensure the quality of products and services meet contractual requirements.

(3) Base the type and extent of Government contract quality assurance actions on the particular acquisition.

(4) Provide contractors the maximum flexibility in establishing efficient and effective quality programs to meet contractual requirements. Contractor quality programs may be modeled on military, commercial, national, or international quality standards.

[56 FR 36460, July 31, 1991, as amended at 60 FR 33145, June 27, 1995; 71 FR 27646, May 12, 2006]