

# DFARS Procedures, Guidance, and Information

## PGI 245—Government Property

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(Revised May 18, 2011)

### PGI 245.1 - GENERAL

#### 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) For the purpose of this PGI, “Government property” is personal property owned by the Government and furnished to a contractor, or acquired by a contractor and title vests in the Government. Government property does not include property under any statutory leasing authority (except as to non-Government use of property under FAR 45.301(f)); property to which the Government has acquired a lien or title solely because of partial, advance, progress, or performance-based payments; software; or intellectual property. It does not include property that is incidental to the place of performance; such as when the contract requires contractor personnel to be located on a Government site or installation where the use of Government-provided office space and equipment, e.g., chairs, telephones, and computers, is standard practice.

#### 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.

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(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) Government property can only be transferred from one contract to another when firm requirements exist under the gaining contract (see FAR 45.102, Policy.). Such transfers shall be documented by modifications to both gaining and losing contracts. (Note: This also applies to orders issued under the same contract.) Once transferred, all property shall be considered Government-furnished property (GFP) when retained by the contractor for continued use under the gaining contract.

(2) The warranties of suitability of use and timely delivery of do not apply to GFP acquired or fabricated by the contractor as contractor-acquired property that is subsequently transferred to another contract with the same contractor.

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(3) Maintaining property on an existing contract beyond completion of delivery performance or service completion is prohibited.

(4) It is the responsibility of contracting officers/item managers to ensure that Government property transfers are properly reported electronically, including the initial furnishing by DoD of Government property and the subsequent transfer of such property to other contracts/contractors, or its return to the Government. DoD or contractor-operated logistics systems using Defense Logistics Management System (DLMS)-enhanced reporting capability, to include authorizing contract number and Item Unique Identification (IUID), when applicable, shall be employed to report initial shipment, receipt acknowledgement, or return of items of supply in accordance with MILSTRIP and Military Standard Transaction Reporting and Accounting Procedure(s) (MILSTRAP). Such use of the DLMS will satisfy Government property transfer reporting requirements. For other Government property items where the DLMS is not applicable, the DoD Wide-Area Workflow (WAWF) Government property transfer system functionality should be used to accomplish reporting requirements. For information on DLMS, MILSTRIP, and MILSTRAP, see [http://www.dla.mil/j-6/dlms/eLibrary/Manuals/dlms\\_pubs.asp](http://www.dla.mil/j-6/dlms/eLibrary/Manuals/dlms_pubs.asp) and click on DoD 4000.25-M, DoD 4000.25-1-M, and DoD 4000.25-2-M, respectively. For information on WAWF, see <https://wawf.eb.mil>; under the Navigation Menu on the left, there is an "About WAWF" link. Click on "list of options" to learn more about WAWF. One of those links is "Access Web-Based Training (External Link)." That link will take the user to <http://wawftraining.com>. This is a web-based, computer-based training type course that includes a section on "Property Shipment and Receipt."

### PGI 245.105 Contractors' property management system compliance.

(d) *Disposition of findings.*

(2) *Initial determination.*

(ii)(A) Within 10 days of receiving the report, if the contracting officer makes a determination that there is a significant deficiency, the contracting officer should provide an initial determination of deficiencies 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 and property administrator shall monitor the contractor's progress in correcting 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 deficiencies. Examples of

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actions the contracting officer can take are: withdraw or withhold approval of the system; bringing the issue to the attention of higher level management, implementing or increasing the withholding in accordance with the clause at [252.242-7005](#), Contractor Business Systems, and recommending non-award of potential contracts.

(B) *Correction of significant deficiencies.*

(1) When the contractor notifies the contracting officer that the contractor has corrected the significant deficiencies, the contracting officer shall request the property administrator to review the correction to determine if the deficiencies have been resolved.

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

(3) If the contracting officer determines the contractor has corrected the deficiencies, the contracting officer's notification shall be sent to the property administrator; 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.