

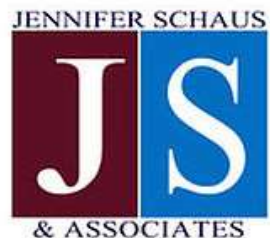


DFARS - 2021

Defense

Federal Acquisition Regulation

Supplement



Complimentary Webinar Series

JSchaus & Associates – Washington DC – hello@JenniferSchaus.com

About The Series

Complimentary Webinar Series

Every Wednesday at 12pm eastern

Recorded and posted on our website and YouTube Channel

PPTs are on SlideShare.net

Speakers are attorneys, consultants, subject matter experts in defense contracting

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Tom Johnson, Publisher
TJohnson@SetAsideAlert.com

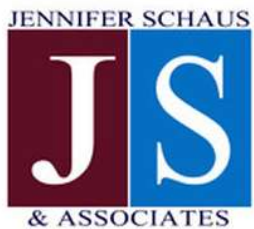


GovCon Council Meetings

3rd Tuesday of the Month at 8 a.m.

novab2g.restonchamber.org | restonchamber.org

aliciaf@restonchamber.org



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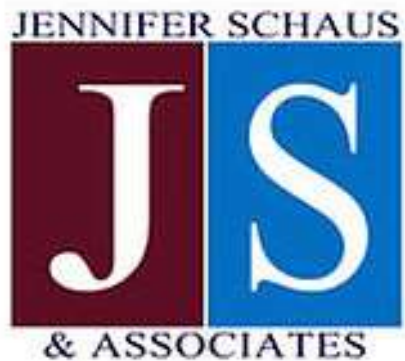
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About Our Speaker



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301-703-9287



DFARs Part #245

Government Property

Wednesday, 13 October 2021

DFARs Part #245

Where The Rules Are

FAR: Part 45 Government Property
52.245-1 – Government Property
52.245-2 – Government Property Installation Operation Services
52.245-9 – Use and Charges

DFARS: Part 245
252.245-7000 – Government-furnished mapping, charting, and geodesy property
252.245-7001 – Tagging, labeling, and marking of government-furnished property
252.245-7002 – Reporting Loss of Government Property
252.245-7003 – Contractor Property Management System Administration
252.245-7004 – Reporting, Reutilization, and Disposal

PGI: 245.1, 245.2, 245.4, 245.6

What Is Government Property?

FAR 45. 101

Government Property - All property owned or leased by the Government

Two Categories: Government Furnished Property
 Contractor-Acquired Property

Examples: Material, equipment, special tooling, special test equipment and real property; but DOES NOT INCLUDE intellectual property and software.

Government Furnished Property - property in the possession of, or directly acquired by, the Government and subsequently furnished to the contractor for performance of a contract.

Contractor-Acquired Property - property acquired, fabricated, or otherwise provided by the contractor for performing a contract and to which the Government has title.

Ownership/Title

FAR 45.401

Government Furnished Property - Government retains title until properly disposed of

FAR 45.402

Contractor-Acquired Property – Title vests according to contract. Absent contract language default rules are:

Fixed Price – contractor retains title to all property acquired by contractor except deliverables

Cost, T&M – Government acquires title to all property to which the contractor is entitled to reimbursement

Fabricators, Manufacturers, R&D Contractors – excess or unused materials

General Policy

FAR 45.102(a)

Ordinarily - contractors furnish property necessary to perform

PGI 245.102-70 (1)

Contractor bring all the necessary property or the ability to obtain it

Responsible contractors should have means for effective and efficient stewardship

Accountability

FAR 45.106

- Government Property transferred from one contract to another only when requirements exist under the gaining contract
- Documented by contract modifications to both contracts
- After transfer, property is Government Furnished Property with respect to the gaining contract

PGI 245.102-70 (2)

- Government Property must be contractually accountable to only one contract at a time
- But contract may allow Government Property to be used on other contracts

PGI 245.103-71

- The only form used to document the transfer of Government Property is the contract modification form – SF 30

Government Furnished Property

PGI 245.103-70

- Project or program manager, or purchase request generator decides
- Contracting officer must make sure four FAR 45.102 requirements are documented in the contracting file

Element 1 - In the Government's best interest

- Economy
- Standardization
- Security
- Expedite production
- Scarcity
- Maintain the industrial base
- Contract type

Government Furnished Property

PGI 245.103-70

Element 2 - Overall benefit significantly outweighs the increased cost of administration

- All associated costs must be considered, including property removal & disposal, demilitarization & disposal of environmentally-regulated property
- Costs must be less than what the contractor might incur, or demonstrated benefit must outweigh additional costs

Element 3 - Providing the property does not substantially increase the Government's risk

- Risk must be discussed and documented
- Other risks may need to be considered, discussed, and documented.

Element 4 - Government requirements cannot otherwise be met.

Responsibility & Liability For Government Property

FAR 45.104

Contractor not liable for loss

- Cost-reimbursement contracts
- Time-and-material contracts
- Labor-hour contracts
- Fixed-price contracts awarded on the basis of submission of certified cost or pricing data
- **DFARS 245.104** - Negotiated fixed-price contracts awarded on basis other than submission of certified cost or pricing data

Contracting officer may revoke the Government's assumption of risk if property management practices are noncompliant

If contractor provides Government property to a subcontractor - not be relieved of responsibility to the Government

Contracting officer determines extent of contractor liability based on damages & form of Government recovery

Contractor Property Management System

DFARS 245.105

- Cognizant contracting officer will determine if contractor has an “acceptable property management system”
- DFARS Clause 252.245-7003 – Acceptable property management system – must address ten areas under FAR 52.245-1(f):
 - Acquisition of Property
 - Receipt of Government Property
 - Records of Government property
 - Physical Inventory
 - Subcontractor control
 - Reports
 - Relief of stewardship responsibility and liability
 - Utilizing Government property
 - Maintenance
 - Property closeout

Contractor Property Management System

DFARS 245.105(d), DFARS Clause 252.245-7003, PGI 245.105

- Property administrator report to CO - documents findings, identify significant deficiencies
 - 252.245-7003 - Significant deficiency: a shortcoming that materially affects ability of DoD to rely on the information
- CO provides written initial determination – system is acceptable & approved, or one or more significant deficiencies
- Contractor - has 30 days to respond in writing to initial determination
- CO in consultation with Property Administrator makes a final determination and issues a notice:
 - Contractor's Property Management System is acceptable; or
 - Significant deficiencies remain
- Within 45 days contractor must correct significant deficiencies or submit acceptable corrective action plan
- If contract includes 252.242-7005 Contractor Business Systems CO **WILL withhold payments**
- **PGI 245.105** – CO will monitor corrective action, request auditor review of corrected deficiencies

Leftover or Excess Property

FAR Subpart 45.6 – Generally applicable procedures for

- Reporting excess property
- Screening
- Reutilizing (Re-using, including donating)
- Abandoning or Destroying
- Sales of excess property

Leftover or Excess Property

DFARS Subpart 245.6

245.602-1 Inventory disposal schedules – plant clearance officer will verify

- Allocability
- Quantity
- Condition

245.602-3 Screening

- Property will be screened DoD-wide, with the requiring agency having priority

Leftover or Excess Property

DFARS Subpart 245.6

245.604-3 Sales of surplus property

Plant clearance officer will determine best value sales approach –

- Informal procedures – PCO can direct contractor to issue informal invitations for bids
- Sale approval and award – PCO will evaluate bids to establish price is fair and reasonable, approve the award and notify contractor within 5 days
- Noncompetitive sales – purchases or sales at less than cost
 - When essential to expeditious plant clearance
 - Government's interests are adequately protected

THANK YOU To Our Speaker



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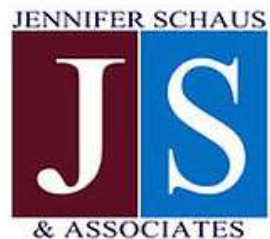




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