Keys to an Acceptable Government Property Management System

December 2016
AGENDA

• Background
  o Property Management System vs. Property Management Plan
  o What is Government Property?
  o Classes of Government Property
• Elements of a Property Management System
• Importance of having an adequate Property Management System
• What to Expect in a DCMA Property Management System Audit
Background
PROPERTY MANAGEMENT SYSTEM VS. PROPERTY MANAGEMENT PLAN

FAR PART 45 GOVERNMENT PROPERTY

FAR 45.202, Evaluation Procedures
(b) The contracting officer shall ensure the offeror’s property management plans, methods, practices, or procedures for accounting for property are consistent with the requirements of the solicitation.

A PROPERTY MANAGEMENT PLAN (PMP) IS SPECIFIC TO THE TYPE OF GOVERNMENT PROPERTY TO BE MANAGED BY THE CONTRACTOR. THE PMP FOLLOWS THE PROPERTY MANAGEMENT SYSTEM REQUIREMENTS.
WHAT IS GOVERNMENT PROPERTY?

EXAMPLE 1

- Security guard Paul Jones works for a Government prime contractor
- He uses Government-issued communications equipment for work at DOD facilities overseas
- Paul then gets assigned to work on a commercial contract, and uses the same equipment he used on the DOD work

COULD THERE BE A PROBLEM?
WHAT IS GOVERNMENT PROPERTY?

EXAMPLE 1
YES! The Government pays for that equipment to be used on that DOD contract, and that DOD contract alone

Raytheon, a major Government contractor, was charged $18 million by the U.S. Air Force for utilizing Government resources on commercial products
WHAT IS GOVERNMENT PROPERTY?

EXAMPLE 2

- Donaldson Enterprises, Inc. (DEI) said that 81 tons of crushed rock were temporarily stored at its subcontractor’s private construction site for eventual transfer to and use on a Government site.
- However, the Government found that the 81 tons of Government property were not delivered to the Government – the rock never reached the destination specified in the delivery order – and was converted to private use.
- This failure was deemed a breach of contract, resulting in a deduction of $3,051.28 from amounts due to DEI.

YOU MIGHT NOT THINK OF CRUSHED ROCK AS GOVERNMENT PROPERTY, BUT IN THIS SCENARIO IT WAS. BE CAREFUL!
WHAT ARE THE REQUIREMENTS TO CALL SOMETHING GOVERNMENT PROPERTY?

FAR 45.101: Government property means all property OWNED or LEASED by the Government. Government property includes both Government-furnished property (GFP) and contractor-acquired property (CAP).
WHAT IS GOVERNMENT PROPERTY?

Government-Furnished Property (GFP)

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

TITLE ALWAYS VESTS IN THE GOVERNMENT
WHAT IS GOVERNMENT PROPERTY?

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

BASICALLY, GOVERNMENT PROPERTY IS EITHER GFP OR CAP!
WHAT IS GOVERNMENT PROPERTY?

THINK BACK TO OUR INITIAL EXAMPLES

Example 1: Communications Equipment
- GFE
- CAP

Example 2: Gravel
- GFE
- CAP
WHAT IS GOVERNMENT PROPERTY?

• GFE (GOVERNMENT-FURNISHED EQUIPMENT)
  Items such as those used for testing and evaluation (the gadgets and widgets engineers use!)

• GFM (GOVERNMENT-FURNISHED MATERIAL)
  Consumable materials expected to be consumed or expended during performance. Once consumed, they’re gone.

WHETHER THE “STUFF” IS MATERIALS OR TOOLS, CONSUMABLE OR DURABLE, IT’S ALL GOVERNMENT-FURNISHED PROPERTY (GFP)
WHAT IS GOVERNMENT PROPERTY?

“STUFF” THE GOVERNMENT OWNS

- Items to which the Government has clear TITLE
- Title clearly demonstrates OWNERSHIP
- Made available to the contractor by the Government for use or consumption in the performance of the contract

Proprietary and Confidential
WHAT IS GOVERNMENT PROPERTY?

“STUFF” THE GOVERNMENT LEASES
The Government leases, then provides to the contractor for use (NOT consumption)

EVEN THOUGH IT’S LEASED, IT’S STILL GOVERNMENT PROPERTY
How can this be Government property? It’s leased, so the Government doesn’t have title to it, right?
The Government wants the contractor to MANAGE, CONTROL, and PROTECT that “stuff” the same as any other Government property.

If you loaned me your leased pickup truck to haul furniture, you’d want me to take care of it like I owned it, right?
The Government is responsible for returning leased property to the leasing company in good condition and in working order.

**KNOWLEDGE CHECK**

A Government-leased facility is provided to a contractor and the facility landlord wants the contractor to renovate space within the building. Can the contractor do the renovation?

**NO!** Even though the landlord may be in charge of day-to-day management of the facility, the Government, as the lessor, must approve all such facility modifications. Be careful!
RELEVANT FAR PROPERTY CLAUSES

- Federal Acquisition Regulation (FAR) Subpart 45 and FAR Clause 52.245-1 and Alternate I
- FAR Clause 52.245-9, Use and Charges
- Defense FAR Supplement (DFARS) Subpart 245, Government Property
- Department of Defense Instruction 4161.02, Guidebook for Contract Property Administration

ALL ITEMS MUST BE ADDRESSED IN PROPERTY MANAGEMENT POLICY AND PROCEDURES
RELEVANT DFARS PROPERTY CLAUSES

- DFARS 245.107, Contract Clauses
- DFARS 252.211-7002, Reporting of Government-Furnished Property
- DFARS 252.245-7001, Tagging, Labeling, and Marking of Government-Furnished Property
- DFARS 252.245-7002, Reporting Loss of Government Property

ALL ITEMS MUST BE ADDRESSED IN PROPERTY MANAGEMENT POLICY AND PROCEDURES
RELEVANT DFARS PROPERTY CLAUSES

- DFARS 252.245-7003, Contractor Property Management System Administration
- DFARS 252.245-7004, Reporting, Reutilization, and Disposal

ALL ITEMS MUST BE ADDRESSED IN PROPERTY MANAGEMENT POLICY AND PROCEDURES
Classes of Government Property
CLASSES OF GOVERNMENT PROPERTY

- MATERIAL
  FAR 52.245-1(a); 45.101

- EQUIPMENT
  FAR 52.245-1(a); 45.101

- SPECIAL TOOLING (ST)
  FAR 2.101

- SPECIAL TEST EQUIPMENT (STE)
  FAR 2.101

- REAL PROPERTY
  FAR 52.245-1(a); 45.101
MATERIAL
FAR 52.245-1(a); FAR PART 45.101

- Does not include equipment, ST, or STE
- Consumed, expended, and/or incorporated
- Uses a percentage of the remaining balance
- Nuts, bolts, screws, washers, batteries, gasoline, paint
CLASSES OF GOVERNMENT PROPERTY

EQUIPMENT
FAR 52.245-1(a); FAR PART 45.101

A tangible asset that is functionally complete for its intended purpose, durable, non-expendable, and needed for the performance of a contract
SPECIAL TOOLING (ST)  
FAR 2.101

• Jigs, dies, fixtures, molds, gauges - relatively specialized
• Used for the performance of particular services
SPECIAL TEST EQUIPMENT (STE)
FAR 2.101

As defined in FAR 2.101: “…either single or multi-purpose integrated test units engineered, designed, fabricated, or modified to accomplish special purpose testing in performing a contract….”
REAL PROPERTY
FAR 52.245-1(a); FAR PART 45.101

Land or rights in land (mineral rights or riparian (of, relating to, or situated on the banks of a river) rights; ground improvements), sidewalks, utility distribution systems, and buildings
Elements of a Property Management System
WHAT ELEMENTS ARE REQUIRED IN AN APPROVABLE BUSINESS SYSTEM

- Policy and Procedures
- Internal Reviews
- Training
- Documentation
WHAT ELEMENTS ARE REQUIRED IN A PROPERTY MANAGEMENT SYSTEM

POLICY AND PROCEDURES
Must address FAR and DFARS requirements regarding property management

TRAINING
Must be documented and tracked by employee

DOCUMENTATION
Per the Property Management Plan, is specific to the property being managed

INTERNAL REVIEWS
• Must be conducted at least annually
• Must include review of entire business system
• Must generate a report of the findings
Importance of Having an Adequate Property Management System
Why should I have an adequate property management system that complies with Government regulations?
IMPORTANCE OF HAVING AN ADEQUATE PROPERTY MANAGEMENT SYSTEM

• If the Government revokes system approval, the contractor assumes all risk
• Contractor is accountable and financially liable for ALL lost, damaged, destroyed, or stolen property, at FULL cost to the contractor
• DFARS 252.245-7003, Contractor Property Management System Administration imposes significant financial penalties for non-compliance

TIME CONSUMING AND COSTLY!
HAVING A GOOD SYSTEM CAN SAVE YOU MONEY!

- From April 2004 through mid-June 2005, an engineer at Raytheon Corporation in Dallas stole at least 7 night vision scopes that Raytheon built for the U.S. Army
- The engineer sold the stolen night vision scopes to a neighbor for $50,000
- Raytheon detected the thefts, in part, because of its property management system safeguards
- The engineer faces a maximum statutory sentence of 10 years in prison; a $250,000 fine; and restitution
- The U.S. Attorney praised Raytheon for its cooperation in the investigation; Raytheon Corporation was not charged
SIGNIFICANT RAMIFICATIONS FOR NON-COMPLIANCE
PAYMENT WITHHOLDING DOESN’T HAPPEN IMMEDIATELY!

• Per DFARS 252.242-7005:
  (d) (1) The contractor shall respond in writing within 30 days of an initial
determination that there are one or more significant deficiencies in one or
more of the contractor’s business systems
  (2) The CO will evaluate the contractor’s response and notify the contractor in
writing of the final determination as to whether the contractor’s business
system contains significant deficiencies. If the CO determines that the
contractor’s business system contains significant deficiencies, the final
determination will include a notice to withhold payment.
• Deficiencies are documented by DCMA in Corrective Action Requests (CARs)
that are provided to the cognizant CO
What to Expect in a DCMA Property Management System Audit
AUTHORITY TO AUDIT

FAR Clause 52.245-1(g)
• Provides detailed guidance as to the Government’s authorities and the contractor’s responsibilities in regard to a Property Management System Audit (PMSA)
• The Government shall have access to the contractor’s premises and all Government property, AT REASONABLE TIMES, for the purposes of reviewing, inspecting, and evaluating the contractor’s property management plan(s), systems, procedures, records, and supporting documentation that pertain to Government property
REQUIREMENTS FOR PERFORMING AUDITS

• FAR Part 45.105 addresses the GOVERNMENT’S REQUIREMENT to audit the contractor
• FAR Clause 52.245-1 addresses the CONTRACTOR’S REQUIREMENT to assess their property management system

HOW OFTEN MUST THE GOVERNMENT PERFORM A PROPERTY MANAGEMENT SYSTEM AUDIT (PMSA)? IT DEPENDS…
REQUIREMENTS FOR PERFORMING AUDITS

PMSA TRIGGERS

• A risk assessment and rating affect how often the Government will perform a PMSA

• Criteria for assignment of a risk rating may include:
  o Dollar value of Government property accountable to that contractor (higher value means higher risk)
  o Historical occurrences of loss, theft, damage, or destruction (LTDD)
  o Physical inventory adjustments
  o Unauthorized use of Government property
LEVELS OF RISK

- **HIGH RISK:** Perform a standard PMSA at least **annually** until such time as the contractor improves to at least the moderate risk level and the Government determines that the status of the contractor's system justifies a reduced level of oversight.

- **MODERATE RISK:** Perform a standard or limited PMSA as often as conditions warrant, but at least **once every 2 years**.

- **LOW RISK:** Perform a standard or limited PMSA as often as conditions warrant, but at least **once every 3 years**.

DCMA 2015 GFP GUIDEBOOK
REQUIREMENTS FOR PERFORMING AUDITS

TYPES OF PMSAs

• **STANDARD:** Requires plant/facility visits, entrance and exit conferences, detailed tests, and formal examination/evaluation of a contractor’s property management system.

• **LIMITED:** Sometimes called “desk audits”, require less formal testing methods and techniques, including detailed onsite testing of select processes, contractor responses to a series of questions covering each property management system element, and interviews of contractor personnel, among other methods, as appropriate, depending on the risk level, amount, and value of property, etc.
AUDIT COMPONENTS

POLICY AND PROCEDURES REVIEW

• DCMA will review your policy and procedures to evaluate compliance with the requirements of FAR Part 45, DFARS Part 245, and other applicable rules and guidelines and conduct a risk assessment of all applicable elements of the property management system

• DCMA will ensure that the contractor’s procedures:
  o Have adequate management and internal controls
  o Address contract terms and conditions, including requirements to perform self-assessments
  o Establish clear lines of authority and organizational accountability for custodial care
  o Describe methods for performing prescribed tasks (receiving, reporting, etc.)
AUDIT COMPONENTS

CONDUCT ENTRANCE CONFERENCE

DCMA will:

- Inform contractor of the scope of the review and the timeline for completion
- Establish with the contractor a mutual understanding of audit processes and sampling procedures to be used
- Discuss the status of any unresolved deficiencies, contractor-proposed changes to its property management system, deficiencies identified by the contractor through self-assessment or other internal reviews, plus any and all related corrective actions
- Inform contractor personnel that an outbrief will be conducted at the end of each workday unless prevented by local circumstances
PROCESS REVIEW AND TESTING

DCMA will:

- Perform annual onsite reviews of records, storage, utilization, and physical inventory processes (at a minimum) when sensitive property is involved.
- Test the following process outcomes to the extent they apply (* indicates a subprocess to a FAR outcome that may require separate population selection):

<table>
<thead>
<tr>
<th>Acquisition</th>
<th>Subcontractor Control</th>
<th>Movement*</th>
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<tbody>
<tr>
<td>Receipt</td>
<td>Reports</td>
<td>Storage*</td>
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<td>Identification*</td>
<td>Relief of Stewardship Responsibility and Liability</td>
<td>Maintenance</td>
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<tr>
<td>Records</td>
<td>Utilization</td>
<td>Property Closeout</td>
</tr>
<tr>
<td>Physical Inventory</td>
<td>Consumption*</td>
<td>Disposition*</td>
</tr>
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- Identify appropriate population/universe for sampling purposes
AUDIT COMPONENTS

ESTABLISH SAMPLING PLAN

DCMA will:

• Determine appropriate sampling methodology
• Use statistical sampling methods whenever possible (judgment and purposive sampling methods may also be used if the situation warrants) based on a selected confidence level

Guidance to DCMA Auditor:

• Judgment sampling is a process used to evaluate areas, items, or actions based on the reviewer’s professional judgment; useful for testing process segments that do not lend themselves to statistical sampling methods
• Purposive sampling is a process used to evaluate areas, items, or actions involving credible, known, or suspected deficiencies or reported conditions of a critical/substantial nature
• Sampling is a tool that supports, not supplants, the auditor’s judgment
AUDIT COMPONENTS

ANALYZE DEFECTS

DCMA will:

• Analyze defects from both quantitative (using established statistical sampling tables acceptance and rejections rates for set populations) and qualitative (impact, significant, materiality) perspectives
• Determine if defects materially affect the ability of DOD officials to rely upon information produced by the contractor’s property management system
• Review appropriate source and supporting documents pertaining to each process outcome
• Validate alignment and consistency of testing/sampling results against the contractor’s written procedures
• Incorporate contractor self-assessment results into PMSA findings (to the extent the results are reliable (i.e., conducted in a manner similar to a PMSA)
AUDIT COMPONENTS

CONDUCT EXIT CONFERENCE

DCMA will:

• Discuss findings identified or discovered during the PMSA, and any actions already taken by the contractor, if any, to resolve or correct deficiencies
• Document the results of the exit conference in the DCMA PMSA file
PREPARE BUSINESS SYSTEM ANALYSIS SUMMARY (BSAS)

Upon completion of a PMSA, DCMA will:

- Prepare a BSAS
- Ensure the BSAS provides a clear understanding of work performed and its conclusions, and a level of detail necessary to allow the CO to determine the significance of deficiencies
- Send the BSAS to the cognizant CO
- Provide copies of PMSA audit reports or other documentation to the CO
ISSUE CORRECTIVE ACTION REQUEST (CAR)/ MONITOR CONTRACTOR CORRECTIVE ACTIONS

• Only the CO can determine a contractual non-compliance to be a significant deficiency. However, DCMA’s preliminary judgment is crucial to the CO’s decision. The type and scope of corrective action(s) can vary based on circumstance.

• If a non-compliance is discovered during a PMSA, DCMA will do one of the following:
  o Issue a Level I or II CAR for deficiencies unlikely to be considered significant
  o Cite the non-compliance as part of the BSAS/PMSA audit report without issuing a CAR

• If a non-compliance is discovered outside of the PMSA process, DCMA will do one of the following:
  o Issue a Level I or II CAR for deficiencies unlikely to be considered significant
  o Prepare a BSAS, cite the non-compliance as part of the BSAS, and forward the BSAS to the CO for their determination as to the significance of the deficiency
ISSUE CORRECTIVE ACTION REQUEST (CAR)/MONITOR CONTRACTOR CORRECTIVE ACTIONS

• DCMA may at any time recommend that the CO issue a higher level (Level III or higher) CAR for any contractual non-compliance requiring immediate corrective action (a non-compliance affecting public health or safety, for example).

• In all cases, after a contractor completes corrective actions, DCMA will determine if corrective actions are implemented and working as intended. If a re-analysis requires additional transactional testing, testing should occur only after a sufficient number of transactions are available. If additional deficiencies are found during re-analysis, DCMA will notify the CO.

• Regardless of whether a CAR is issued, in all cases, any contractual non-compliance will be referenced and/or addressed as part of the next PMSA.
CORRECTIVE ACTION REQUEST (CAR) LEVELS

- **LEVEL I**: Issued for a nonconformity that can be corrected on the spot and where no further corrective action response is necessary.
- **LEVEL II**: Issued when a contractual nonconformity cannot be corrected on the spot.
- **LEVEL III**: Issued to the supplier’s top management to call attention to a serious contractual nonconformity. Repeat nonconformities found within one year for the same single point failure characteristics shall be issued as a Level III CAR. A Level III CAR may be coupled with contractual remedies such as reductions of progress payments, cost disallowances, or business management systems disapprovals, etc. A Level I or II CAR need not be issued before a Level III CAR is generated. All Level III CARs shall be coordinated with the Contracting Officer.
- **LEVEL IV**: Issued to the supplier’s top management when a Level III CAR has been ineffective or the contractual nonconformity is of such a serious nature to warrant contractual remedies such as suspension of progress payments or product acceptance activities, in accordance with applicable FAR/DFARS policies and procedures.
PROPERTY-TO-RECORD REVIEW

- In addition to the normal “Record-to-Property” analysis, DCMA will conduct a “Property-to-Record” review. This involves a random selection of property from the floor being traced back to the record to ensure that a record has been generated or is being maintained.

- If the auditor plans to use statistical sampling with the prescribed 90%, 95%, or 97% acceptance and rejection rates, it is important that the selection of property for Property-to-Record review is random.

- Randomness can be achieved only by developing a random selection plan before the selection process starts.

- A simple random selection technique is to use the same sample population utilized for the PMSA, but before reviewing these items, determine that you will select either the item above, below, or to the left or right of the selected PMSA samples as the Property-to-Record samples.
Best Practices, Industry Leading Practices, Standards
The philosophy for best practices and Industry Leading Practices (ILP) is specifically referenced in FAR 45.103, which says: “Agencies shall allow and encourage contractors to use voluntary consensus standards and industry leading practices and standards to manage Government property in their possession.”

Voluntary consensus standards and ILPs are continuously reviewed to ensure that prevailing practices that bring a best value approach for property management are understood.

The goal is to balance the cost of property management with the risk of property loss and adapt its property management systems to address changing external requirements and business conditions.

Where standards or industry benchmarks do not exist, the contractor should establish and implement new concepts that support its property management philosophy.
## INDUSTRY LEADING PRACTICES

### ACQUISITION
A Property Management Plan is provided during response to solicitation

Unless a contract specifically requires customer authorization, perform cost transfers of excess or available contractor acquired material from one contract to another without customer authorization if managed within a DOD contractually required MMAS or by utilization of a credit-debit system

### RECEIVING
Prior to acceptance, a visual review for damage to the outside packaging/container performed

### IDENTIFICATION
Use of virtual identification in databases for equipment requiring DOD Unique Item Identifiers (UII)

### PHYSICAL INVENTORY
Utilize Inventory by Exception (IBE)/Transaction Based Inventory Methods

### SUBCONTRACT CONTROL
Use standard format for flowing down Government/contract property requirements, including extent of liability for the loss of Government property

### REPORTS
Utilize electronic reporting/correspondence

### RELIEF OF STEWARDSHIP
Consider reconcilable material discrepancies prior to generating a final accuracy rate. The final report should reflect post-reconcilable discrepancies.

Utilize electronic reporting for the loss of Government property

### PROPERTY CLOSEOUT
Establish a contract closeout team consisting of several functional entities

Commingle Government-owned and Contractor-owned scrap

### SELF-ASSESSMENTS
Perform self-assessments and/or internal audits
Resources
PROPERTY MANAGEMENT WEBSITES

• FAR/DFARS
  http://farsite.hill.af.mil/

• DCMA GUIDEBOOK FOR CONTRACT PROPERTY ADMINISTRATION
  http://www.dodprocurementtoolbox.com/page/gfp/resources

• DOD PROCUREMENT TOOLBOX
  http://www.dodprocurementtoolbox.com/page/gfp/resources

• DOD PROPERTY & EQUIPMENT POLICY OFFICE
  http://www.acq.osd.mil/pepolicy/

• AEROSPACE INDUSTRIES ASSOCIATION (AIA)
  http://www.aia-aerospace.org/connections/for_suppliers/government_property_standards/

• NATIONAL PROPERTY MANAGEMENT ASSOCIATION (NPMA)
  http://www.npma.org
QUESTIONS AND ANSWERS
GovCon360 keeps you abreast of the ever-changing regulatory environment that is Government contracting. From reference materials, like searchable copies of the FAR and DCAM, to our past Lunch and Learn seminar slide decks and thought pieces on industry matters, we’ve got it covered. Subscribe to our RSS feed to receive short alerts on recent industry changes. It’s always been our job to help our clients maintain a competitive advantage by staying ahead of the curve. This website is an extension of the services we’ve been providing for over 35 years by putting useful resources and up-to-date information at your fingertips.