

radius of the airport beginning at the 226° bearing clockwise to the 123° bearing, thence to the point of beginning, within 2 miles north and south of the airport's 076° bearing extending to 10.2 miles east, and within 2.2 miles north and 2.1 miles south of the airport's 265° bearing extending to 7.8 miles west, excluding that airspace within Mexico and the sensitive bird nesting area south and east of the airport.

* * * *

Issued in Fort Worth, Texas, on December 18, 2023.

Steven Phillips,

*Acting Manager, Operations Support Group,
ATO Central Service Center.*

[FR Doc. 2023-28200 Filed 12-21-23; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 205 and 225

[Docket DARS-2023-0001]

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule; technical amendment.

SUMMARY: DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to make needed editorial changes.

DATES: Effective December 22, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer D. Johnson, Defense Acquisition Regulations System, telephone 703-717-8226.

SUPPLEMENTARY INFORMATION: This final rule amends the DFARS to make needed editorial changes to update the references to the Governmentwide point of entry (<https://www.sam.gov>) at DFARS 205.205-70, 205.301, 225.7003-3 and 225.7018-4.

List of Subjects in 48 CFR Parts 205 and 225

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 205 and 225 are amended as follows:

■ 1. The authority citation for 48 CFR parts 205 and 225 continues to read as follows:

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

PART 205—PUBLICIZING CONTRACT ACTIONS

205.205-70 [Amended]

■ 2. Amend section 205.205-70 in paragraph (a) by removing “*FedBizOpps.gov* (or any successor site)” and adding “the Governmentwide point of entry (<https://www.sam.gov>)” in its place.

205.301 [Amended]

■ 3. Amend section 205.301 in paragraph (S-70)(i) by removing “GPE” and adding “Governmentwide point of entry (<https://www.sam.gov>)” in its place.

PART 225—FOREIGN ACQUISITION

■ 4. Amend section 225.7003-3 by revising paragraph (b)(5)(ii)(A)(1) to read as follows:

225.7003-3 Exceptions.

* * * *

(b) * * *

(5) * * *

(ii) * * *

(A) * * *

(1) Publish a notice in the Governmentwide point of entry (GPE) (<https://www.sam.gov>) of the intent to make the domestic nonavailability determination; and

* * * *

■ 5. Amend section 225.7018-4 by revising paragraph (b)(1)(i) to read as follows:

225.7018-4 Nonavailability determination.

* * * *

(b) * * *

(1) * * *

(i) Publish a notice in the GPE (<https://www.sam.gov>) of the intent to make the nonavailability determination; and

* * * *

[FR Doc. 2023-27940 Filed 12-21-23; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 211, 212, 245, and 252

[Docket DARS-2023-0017]

RIN 0750-AL14

Defense Federal Acquisition Regulation Supplement: Consolidation of DoD Government Property Clauses (DFARS Case 2020-D029)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to consolidate existing contract clauses for the management and reporting of Government property into a single contract clause. The final rule also replaces references to legacy software applications used for reporting Government property within the DoD enterprise-wide eBusiness platform, and converts existing form-based processes into electronic processes within that platform.

DATES: Effective January 22, 2024.

FOR FURTHER INFORMATION CONTACT: Heather Kitchens, telephone 571-296-7152.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 88 FR 25600 on April 27, 2023, to amend the DFARS to consolidate contract clauses related to management and reporting of Government property, update references to certain forms that are being incorporated into electronic processes, and update references to applications used to report receipt, shipment, transfer, or loss of Government property, or excess Government property. DoD developed the Government-Furnished Property (GFP) module within the Procurement Integrated Enterprise Environment (PIEE) to house the GFP life-cycle reporting requirements to provide end-to-end accountability for all GFP transactions within a single, secure, integrated system, while employing enhancements in technology to reduce burden on the public and the Government. The final rule creates a new consolidated clause at DFARS 252.245-7005, Management and Reporting of Government Property, and removes and reserves the following DFARS clauses:

- 252.211–7007, Reporting of Government-Furnished Property.
- 252.245–7001, Tagging, Labeling, and Marking of Government-furnished Property.
- 252.245–7002, Reporting Loss of Government Property.
- 252.245–7004, Reporting, Reutilization, and Disposal.

Four respondents submitted public comments in response to the proposed rule.

II. Discussion and Analysis

DoD reviewed the public comments in the development of the final rule. Public comments from three respondents were unrelated to the rule, and therefore were not considered in the development of the final rule. A discussion of the respondent's comments and the changes made to the rule, as a result of those comments, is provided as follows:

A. Summary of Significant Changes From the Proposed Rule

The term “physical” was removed from the requirement to report receipt of GFP. The discussion of workmanship errors was removed from the requirement to report loss of property. The seven-day reporting requirement for loss was removed, thereby defaulting to the timeframe identified in the clause at Federal Acquisition Regulation (FAR) 52.245–1, Government Property. Marking of GFP was clarified by stating it is only applicable to items being repaired by a contractor. Outdated weblinks were revised.

B. Analysis of Public Comments

1. Marking Government-Furnished Property

Comment: The respondent questioned why the proposed rule creates a new requirement for marking equipment.

Response: DFARS clause 252.245–7001 Tagging, Labeling, and Marking of Government-Furnished Property, requires contractors to mark all Government-furnished property that is identified as serially managed and has not been previously marked. The consolidated clause, DFARS 252.245–7005, reduces that requirement to only mark items that are identified as serially managed, where the contractor has access to the technical data and the technical data indicates a marking requirement. To further restrict the application of this requirement, the language has been modified to clarify that the marking requirement only applies to serially managed items being repaired by the contractor, where the contractor has access to the technical data and the technical data requires

marking. DFARS clause 252.245–7001 is removed and reserved by this final rule.

Comment: The respondent questioned why the term “technical drawings” does not include technical data in other media and stated that the term may be misinterpreted. The respondent expressed concern that the requirement could be misinterpreted as requiring contractors to have technical data packages on all GFP.

Response: The final rule retains the term “technical drawing” in paragraph (d) of the new clause at DFARS 252.245–7005. This term reflects the Government's needs and is more limited in scope than other terms such as “technical data” or “technical data package.” In addition, restricting this requirement to items the contractor is repairing eliminates the opportunity to misinterpret the requirement and to potentially apply it to a broader scope than intended.

Comment: The respondent asked for clarification if an item has been marked but not registered, and if that is a new requirement.

Response: As noted above, the requirement for marking items is an existing requirement. In this final rule, marking has been limited to repairs, where the technical drawing requires marking and registration of the item, and therefore has limited and specific applicability.

2. Misinterpretation of DFARS PGI

Comment: The respondent commented on marking contractor acquired property (CAP) when it is delivered. The comments identified that the statement in DFARS PGI 245.402–71(3)(iii) on the delivery of contractor-acquired property, “Contractor-acquired property items shall be marked as required by DFARS clause 252.211–7003”, was interpreted to require marking of CAP at delivery.

Response: While DFARS PGI 245.402–71(3)(iii) is not part of DFARS Case 2020–D029, the reference to DFARS clause 252.211–7003, Item Unique Identification and Valuation, is correct. DFARS clause 252.211–7003 is required “. . . in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, for supplies, and for services involving the furnishing of supplies. . . .” This would include where line items are established for the delivery of CAP. It is the presence of the clause 252.211–7003 that may require the marking of CAP at delivery.

Comment: The respondent inquired why there is no existing requirement to report or mark items shipped-in-place.

Response: DFARS clause 252.211–7003 identifies the criteria for marking and requires reporting the receipt of all Government-furnished property. The clause does not provide an exception or exclusion for property shipped-in-place. If an item requires marking under the clause, the marking is required regardless of the shipping destination.

3. Data Elements

Comment: The respondent stated the rule creates a “proxy” National Stock Number where it states one of the data elements is “(1) National stock number (NSN).” The respondent asked if an NSN is not available, if it is appropriate to use either the combination of manufacturer's CAGE code and part number, or model number.

Response: DFARS 252.245–7005 includes more specific details of the requirement in FAR 52.245–1 that the contractor's property records contain “The name, part number and description, National Stock Number (if needed for additional item identification tracking and/or disposition), and other data elements as necessary and required in accordance with the terms and conditions of the contract.” It is not creating a proxy but indicates a preference for when the National Stock Number is used and identifies the alternatives, when it is not.

Comment: The respondent stated that sometimes serially managed assets are received without serial numbers, and therefore instructions should be provided that the serial number is not mandatory.

Response: The requirement relates to the ability of the contractor's system to capture data when they create records. The requirement is that the contractor records be able to record serial numbers for serially managed items when a unique item identifier (UII) is not present, not that a serial number is mandatory in all cases.

4. Reporting Consumption of Serially Managed Assets

Comment: The respondent inquired as to why reporting of serially managed assets occurs when consumed into higher-level components as a new requirement.

Response: This is not a new requirement as the DFARS clause 252.211–7007 required the reporting of serially managed items when they are “Consumed or expended, reasonably and properly, or otherwise accounted for, in the performance of the contract

as determined by the Government property administrator, including reasonable inventory adjustments.” DFARS clause 252.245–7005 also requires reporting when serially-managed items of GFP are incorporated into a higher-level component, assembly, or end item.

5. Physical Receipt

Comment: The respondent stated that the term “physical” receipt is confusing as receipt may be virtual for property transferred in place or received by a subcontractor on behalf of the contractor.

Response: The term physical has been removed in the final rule.

6. Reporting Transfer of GFP

Comment: The respondent took exception to the requirement to report the transfer of property between contracts, both in the proposed rule and DFARS clause 252.211–7007, as the transfer of property between contracts should be done by the Government through modification.

Response: FAR 45.106 and DFARS PGI 245.103–71 both require a contract modification to transfer the accountability of property between contracts. FAR 45.106 states that once transferred the property becomes Government-furnished property on the new contract. Just as the Government listing the property in the contract does not show receipt of the property, the contract modification does not reflect any physical or virtual updates to the contractor records to reflect the change in accountability. The contractor reporting of transfers at DFARS 252.245–7005(b)(ii) shows that the action required by the modification changing accountability is complete as required to enable accurate accountability of assets. This is not a change from the clause 252.211–7007.

7. Reporting Through Commercial Asset Visibility

Comment: The respondent questioned whether there is duplication between the requirements of the proposed rule (and the DFARS clause 252.211–7007) with requirements to report to the Commercial Asset Visibility System (CAV). CAV is a system used by the Department of the Navy to track assets during the repair process. The recommendation is made that reporting reparables should be removed from this case in favor of new rulemaking.

Response: The respondent’s recommendation is not accepted. CAV reporting covers a specific organization’s reporting requirements that include reporting not covered by

the proposed rule and excludes reporting required on all Government property. FAR clause 52.245–1, at paragraphs (f)(1)(iii) and (vi), identifies that there will be contract specific reporting requirements. Including contract specific reporting requirements, however, does not eliminate DoD’s need for standard reporting for all GFP. DoD has created significant efficiencies and reduced the burden on contractors by incorporating multiple legacy tools into the PIEE GFP Module. This rule advances the process of creating standard Government property reporting, and DoD continues to reduce duplicative reporting where practical.

8. Timeframe for Reporting

Comment: The respondent inquired as to whether creating a standard timeframe for reporting is arbitrary and will increase the cost of compliance.

Response: The data reported on Government property is used for numerous purposes by multiple functional communities including finance, logistics, asset managers, and acquisition. These stakeholders were involved in the drafting of the proposed rule. The seven-day standard represents a time that supports their needs for timely information and minimizes the need for contract specific reporting or timeframes. The establishment of a timeframe does not increase the volume of what will be reported or the time it takes to report each action, and therefore should have no impact on the public burden compared to the previous requirement. To minimize the impact on contractors, reporting of loss has been removed from the seven-day reporting requirement so that any action with an established timeframe in FAR clause 52.245–1 will use the existing FAR timeframe.

9. Reporting of Loss Can Be Misinterpreted

Comment: The respondent inquired whether the statement “Unless otherwise provided for in this contract, this requirement applies to a loss of GFP that results from damage that occurs during work in process (e.g., workmanship errors)” will be subject to misinterpretation and does not consider long-standing industry processes.

Response: The statement has been removed from the final rule to avoid the possibility of misinterpretation.

10. Economic Burden of Rule

Comment: The respondent disagreed with the statement that DoD does not expect the proposed rule to have a significant economic impact on a substantial number of small entities

within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule is not creating any new requirements for contractors.

Response: The items identified as new requirements by the respondent in prior comments are requirements in the existing contract clauses. Many of those requirements have been simplified or reduced in the final rule to reduce the impact on contractors. The improvements in automation and the standardization of business processes in this rule are expected to substantially reduce the burden on industry.

11. Use of Hyperlinks

Comment: The respondent expressed concern for the practice of including hyperlinks to documents within policy.

Response: Hyperlinks in the rule were reviewed for accuracy and relevance as follows: (1) SAM.GOV as an authoritative Government source; (2) the Procurement Integrated Enterprise Environment (PIEE) to provide access to the GFP Module, the required application for reporting; and (3) the Defense Logistics Standards Manual to provide ready access to supply condition code information. These links are beneficial to contractors who will need to execute the requirements of DFARS clause 252.245–7005.

12. Request for Additional Rulemaking

Comment: The respondent inquired if the Department should provide instruction on reporting of embedded items removed during repair.

Response: Reporting of embedded items during repair is based on the requirements of the contract and the GFP attachment. The request for policy clarification will be reviewed and may be subject to future rulemaking.

C. Other Changes

The final rule adds a clarification that the IUID Registry is to be used for the purpose of verifying whether a marked item had been registered.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT), for Commercial Products (Including Commercially Available Off-the-Shelf (COTS) Items), and for Commercial Services

This final rule creates a new DFARS contract clause 252.245–7XXX, Management and Reporting of Government Property. DFARS 252.245–7XXX is prescribed at DFARS 245.107(4) for use in solicitations and contracts containing the clause at FAR 52.245–1, Government Property. DFARS 252.245–7XXX is applicable to acquisitions at or below the SAT and to

acquisitions of commercial products and commercial services, when the contract contains the clause at FAR 52.245–1. For DoD, the FAR clause 52.245–1 is required to be used in all purchase orders for repair, maintenance, overhaul, or modification of Government property regardless of the unit acquisition cost of the items to be repaired. These types of purchase orders are likely to fall under the SAT. Not applying this clause to contracts below the SAT and for the acquisition of commercial products, including COTS items, and commercial services would exclude contracts intended to be covered by this rule and undermine the overarching purpose of the rule. Consequently, DoD is applying the rule to contracts at or below the SAT, for the acquisition of commercial products including COTS items, and for the acquisition of commercial services.

IV. Expected Impact of the Rule

The final rule consolidates the requirements for Government property reporting from multiple DFARS contract clauses into a single DFARS clause, reflecting the move of this activity into a single integrated eBusiness platform. This change will improve the ability of contractors and the Government to access and use the data across the Government property life cycle. The technical enhancements of the PIEE GFP Module allow for importing data, which will substantially reduce the reporting burden on DoD contractors while improving the accuracy of information. The PIEE GFP Module further enables DoD to consolidate and electronically share data about Government property in the possession of contractors, thereby improving accountability and auditability.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, as amended.

VI. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs has determined that this rule is not a major rule as defined by 5 U.S.C. 804.

VII. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, and is summarized as follows:

DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to consolidate existing contract clauses for the management and reporting of Government property into a single DFARS clause, eliminate some form-based reporting by providing an electronic equivalent, and replace references to legacy software applications used for the reporting of Government property with updated language directing the Government and contractors to utilize the Procurement Integrated Enterprise Environment (PIEE) Government-furnished property (GFP) Module within the DoD enterprise-wide eBusiness platform. DoD developed the GFP module within the PIEE to house the GFP life-cycle reporting requirements, thus providing end-to-end accountability for all GFP transactions within a single, secure, integrated system. Use of the PIEE GFP Module capitalizes on technological enhancements and reduces burden on the public and the Government.

The objective of the rule is to create more efficient instructions for reporting Government property by consolidating reporting requirements for Government property. The rule transitions instructions for property reporting from multiple stand-alone, legacy software applications to the PIEE GFP Module, a fully integrated, DoD enterprise-wide eBusiness platform. Use of the new system functionality will enable DoD to address numerous audit findings and security concerns. The legal basis for the rule is 41 U.S.C. 1303.

No comments were received in response to the initial regulatory flexibility analysis.

This rule will likely affect some small business concerns that are provided

Government-furnished property in the performance of their contracts. Data generated from the Federal Procurement Data System for fiscal years 2019 through 2021 indicates that, on average, 2,022 unique small entities per year received awards with Government property that would be subject to this rule.

The rule does not impose any new reporting, recordkeeping, or compliance requirements. The replacement application used for reporting is intended to maintain the status quo regarding the information to be reported and to reduce compliance requirements due to the technological advances in the PIEE GFP Module.

There are no practical alternatives that would reduce burden on small entities and still meet the objective of creating efficiency by consolidating reporting requirements for Government property.

VIII. Paperwork Reduction Act

This rule contains information collection requirements that have been approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35). This information collection requirement is assigned OMB Control Number 0704–0246, Defense Federal Acquisition Regulation Supplement (DFARS) part 245, Government Property.

List of Subjects in 48 CFR Parts 211, 212, 245, and 252

Government procurement.

Jennifer D. Johnson,
Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 211, 212, 245, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 211, 212, 245, and 252 continues to read as follows:

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

PART 211—DESCRIBING AGENCY NEEDS

211.274–4 [Removed]

■ 2. Remove section 211.274–4.

211.274–5 and 211.274–6 [Redesignated as 211.274–4 and 211.274–5]

■ 3. Redesignate sections 211.274–5 and 211.274–6 as sections 211.274–4 and 211.274–5, respectively.

211.274–5 [Amended]

■ 4. Amend the newly redesignated section 211.274–5 by—

- a. Redesignating paragraphs (a)(1), (2), and (3) as paragraphs (a) introductory text and (a)(1) and (2), respectively;
- b. Removing paragraph (b); and
- c. Redesignating paragraph (c) as paragraph (b).

PART 212—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

- 5. Amend section 212.301—
- a. In paragraph (f)(v)(A) by removing “211.274–6(a)(1)” and adding “211.274–5(a)” in its place;
- b. By removing paragraph (f)(v)(B);
- c. By redesignating paragraph (f)(v)(C) as paragraph (f)(v)(B);
- d. In the newly redesignated paragraph (f)(v)(B) by removing “211.274–6(c)” and adding “211.274–5(b)” in its place;
- e. Redesignating paragraphs (f)(xix) and (xx) as paragraphs (f)(xx) and (xxi), respectively; and
- f. Adding a new paragraph (f)(xix).

The addition reads as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.

* * * * *

(f) * * *

(xix) *Part 245—Government Property.*

Use the clause at 252.245–7005, Management and Reporting of Government Property, as prescribed in 245.107(4).

* * * * *

PART 245—GOVERNMENT PROPERTY

- 6. Amend section 245.102—
- a. By revising paragraph (2);
- b. In the paragraph (4) heading and paragraphs (4)(i) and (4)(ii)(A) by removing “Government-furnished property” and adding “GFP” in their places, respectively; and
- c. By revising paragraph (5).

The revisions read as follows:

245.102 Policy.

* * * * *

(2) *Government supply sources.* When a contractor will be responsible for preparing requisitioning documentation to acquire Government-furnished property (GFP) from Government supply sources, include in the contract the requirement to prepare the documentation in accordance with DLM 4000.25, Defense Logistics Management Standards (DLMS), Volume 2, Supply Standards and Procedures. Copies are available from the address cited at PGI 251.102.

* * * * *

(5) *Reporting Government property.* It is DoD policy that all Government

property be reported in the GFP module or Wide Area WorkFlow module of the Procurement Integrated Enterprise Environment (PIEE) as required by the clause at 252.245–7005, Management and Reporting of Government Property.

- 7. Revise section 245.103–72 to read as follows:

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

When performance will require the use of GFP, contracting officers shall include the GFP attachment to solicitations and awards. See PGI 245.103–72 for links to the formats and procedures for preparing the GFP attachment.

- 8. Amend section 245.107 by—
- a. Removing paragraphs (3), (4), and (6);
- b. Redesignating paragraph (5) as paragraph (3); and
- c. Adding a new paragraph (4).

The addition reads as follows:

245.107 Contract clauses.

* * * * *

(4) Use the clause at 252.245–7005, Management and Reporting of Government Property, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, that contain the clause at FAR 52.245–1, Government Property.

245.201–70 [Removed]

- 9. Remove section 245.201–70.

245.201–71 [Redesignated as 245.201–70]

- 10. Redesignate section 245.201–71 as 245.201–70 and revise the newly designated section to read as follows:

245.201–70 Security classification.

Follow the procedures at PGI 245.201–70 for security classification.

- 11. Amend section 245.604–1—
- a. In paragraph (1) by removing “(formal or informal sales)”;
- b. By revising the paragraph (2) heading;
- c. In paragraph (3)(ii) by removing “252.245–7004, Reporting, Reutilization, and Disposal” and adding “252.245–7005, Management and Reporting of Government Property” in its place;
- d. In the paragraph (4) heading and paragraphs (4)(i) introductory text and (4)(ii) by removing “Noncompetitive” and adding “Negotiated” in its place wherever it appears, and in paragraph (4)(iii) introductory text by removing “noncompetitive” and adding “negotiated” in its place; and

- e. In paragraph (5) by removing “Implementation of Trade Security Controls” and adding “Implementation of Trade Security Controls (TSCs) for Transfers of DoD Personal Property to Parties Outside DoD Control” in its place.

The revision reads as follows:

245.604–1 Sales procedures.

* * * * *

(2) *Invitation for bid procedures.*

* * *

* * * * *

SUBPART 245.70 [Removed and Reserved]

- 12. Remove and reserve subpart 245.70 consisting of sections 245.7001 and 245.7001–1 through 245.7001–6.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.211–7003 [Amended]

- 13. Amend section 252.211–7003 introductory text by removing “211.274–6(a)(1)” and adding “211.274–5(a)” in its place.

252.211–7007 [Removed and Reserved]

- 14. Remove and reserve section 252.211–7007.

252.211–7008 [Amended]

- 15. Amend section 252.211–7008 introductory text by removing “211.274–6(c)” and adding “211.274–5(b)” in its place.

252.245–7001 [Removed and Reserved]

- 16. Remove and reserve section 252.245–7001.

252.245–7002 [Removed and Reserved]

- 17. Remove and reserve section 252.245–7002.

252.245–7003 [Amended]

- 18. Amend section 252.245–7003 introductory text by removing “245.107(5)” and adding “245.107(3)” in its place.

252.245–7004 [Removed and Reserved]

- 19. Remove and reserve section 252.245–7004.
- 20. Add section 252.245–7005 to read as follows:

252.245–7005 Management and Reporting of Government Property.

As prescribed in 245.107(4), use the following clause:

Management and Reporting of Government Property (Jan 2024)

(a) *Definitions.* As used in this clause—

As *is* means that the Government makes no warranty with respect to the serviceability and/or suitability of the Government property for contract performance and that the Government will not pay for any repairs, replacement, and/or refurbishment of the property.

Commercial and Government Entity (CAGE) code means—

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity by unique location; or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code.

Contractor-acquired property, contractor inventory, Government property, Government-furnished property, and loss of Government property have the meanings given in the Federal Acquisition Regulation (FAR) 52.245–1, Government Property, clause of this contract.

Demilitarization means the act of eliminating the functional capabilities and inherent military design features from DoD personal property. Methods and degree range from removal and destruction of critical features to total destruction by cutting, tearing, crushing, mangling, shredding, melting, burning, etc.

Export-controlled items has the meaning given in the Defense Federal Acquisition Regulation Supplement (DFARS) 252.225–7048, Export-Controlled Items, clause of this contract.

Ineligible transferee means an individual, an entity, or a country—

(1) Excluded from Federal programs by the General Services Administration as identified in the System for Award Management Exclusions located at <https://sam.gov>;

(2) Delinquent on obligations to the U.S. Government under surplus sales contracts;

(3) Designated by the Department of Defense as ineligible, debarred, or suspended from defense contracts; or

(4) Subject to denial, debarment, or other sanctions under export control laws and related laws and regulations, and orders administered by the Department of State, the Department of Commerce, the Department of Homeland Security, or the Department of the Treasury.

Item unique identification means a system of assigning, reporting, and marking DoD property with unique item identifiers that have machine-readable data elements to distinguish an item from all other like and unlike items.

National stock number means a 13-digit stock number used to identify items of supply. It consists of a four-digit Federal Supply Code and a nine-digit National Item Identification Number.

Reparable item means an item, typically in unserviceable condition, furnished to the

contractor for maintenance, repair, modification, or overhaul.

Scrap means property that has no value except for its basic material content. For purposes of demilitarization, scrap is defined as recyclable waste and discarded materials derived from items that have been rendered useless beyond repair, rehabilitation, or restoration such that the item's original identity, utility, form, fit, and function have been destroyed. Items can be classified as scrap if processed by cutting, tearing, crushing, mangling, shredding, or melting. Intact or recognizable components and parts are not "scrap."

Serially-managed item means an item designated by DoD to be uniquely tracked, controlled, or managed in maintenance, repair, and/or supply systems by means of its serial number or unique item identifier.

Serviceable or usable property means property with potential for reutilization or sale as is or with minor repairs or alterations.

Supply condition code means a classification of materiel in terms of readiness for issue and use or to identify action underway to change the status of materiel.

Unique item identifier (UII) means a set of data elements marked on an item that is globally unique and unambiguous. The term includes a concatenated UII or a DoD recognized unique identification equivalent.

(b) *Reporting Government property.* (1) The Contractor shall use the Government Furnished Property (GFP) module of the Procurement Integrated Enterprise Environment (PIEE) to—

(i) Report receipt of GFP;

(ii) Report the transfer of GFP to another DoD contract;

(iii) Report the shipment of GFP to the Government or to a contractor. The GFP module generates the electronic equivalent of the DD Form 1149, DD Form 1348–1, or other required shipping documents;

(iv) Report when serially-managed items of GFP are incorporated into a higher-level component, assembly, or end item;

(v) Report the loss of Government property in accordance with paragraph (f)(1)(vii) of the FAR 52.245–1 clause of this contract;

(vi) Complete the plant clearance inventory schedule in accordance with paragraph (j)(2) of the FAR 52.245–1 clause of this contract, unless disposition instructions are otherwise included in this contract. The GFP module generates the electronic equivalent of the Standard Form (SF) 1428, Inventory Disposal Schedule; and

(vii) Submit a request to buy back or to convert to GFP items of Contractor-acquired property.

(2) Information regarding the GFP module is available in the GFP Module Vendor Guide at <https://dodprocurementtoolbox.com/site-pages/gfp-resources>. Users may also register for access to the GFP module and obtain training on the PIEE home page at <https://piee.eb.mil>.

(3) In complying with paragraphs (b)(1)(i) through (iv) of this clause, the Contractor shall report the updated status of the property to the GFP module within 7 business days of the date the change in status occurs, unless otherwise specified in the contract.

(4) The Contractor shall use Wide Area Workflow in accordance with DFARS Appendix F, Material Inspection and Receiving Report, to report the shipment of reparable items after completion of repair, maintenance, modification, or overhaul.

(5) When Government property is in the possession of subcontractors, the Contractor shall ensure that reporting is accomplished using the data elements required in paragraph (c) of this clause.

(c) *Records of Government property.* To facilitate reporting of Government property to the GFP module, the Contractor's property records, in addition to the requirements of paragraph (f)(1)(iii) of the FAR 52.245–1 clause of this contract, shall enable recording of the following data elements:

(1) National stock number (NSN). If an NSN is not available, use either the combination of the manufacturer's CAGE code and part number, or model number.

(2) CAGE code on the accountable Government contract.

(3) Received/sent (shipped) date.

(4) Accountable Government contract number.

(5) Serial number (for serially-managed items that do not have a UII); and

(6) Supply condition code (only required for reporting of reparable items). For information on Federal supply condition codes, see DLM 4000.25, Defense Logistics Management Standards (DLMS), Volume 2, Supply Standards and Procedures, Appendix 2.5 at <https://www.dla.mil/HQ/InformationOperations/DLMS/elibrary/manuals/v2/>.

(d) *Marking, reporting, and UII registration of GFP requirements.* The Contractor—

(1) Shall assign the UII and mark the reparable items identified as serially managed in the GFP attachment to this contract with an item unique identification (IUID) data matrix, when the technical drawing for the item is accessible to the Contractor and includes IUID data matrix location and marking method;

(2) Shall report the UII either before or during shipment of the repaired item;

(3) Is not required to mark items that were previously marked with an IUID data matrix and registered in accordance with DFARS 252.211–7003, Item Unique Identification and Valuation; and

(4) Shall assign a new UII, then mark and register the item, when the conditions of paragraph (d)(1) are met, if an item is found to be marked but not registered in the IUID Registry.

(e) *Disposing of Government property.* (1) The Contractor shall complete the plant clearance inventory schedule using the plant clearance capability of the GFP module of the PIEE to generate an electronic equivalent of the SF 1428, Inventory Disposal Schedule. The plant clearance inventory schedule requires the following:

(i) If known, the applicable Federal supply code (FSC) for all items, except items in scrap condition.

(ii) If known, the manufacturer name for all aircraft components under Federal supply group 16 or 17 and FSCs 2620, 2810, 2915, 2925, 2935, 2945, 2995, 4920, 5821, 5826, 5841, 6340, and 6615.

(iii) The manufacturer name, make, model number, model year, and serial number for all aircraft under FSCs 1510 and 1520.

(2) If the schedules are acceptable, the plant clearance officer will confirm acceptance in the GFP module plant clearance capability, which will transmit a notification to the Contractor. The electronic acceptance is equivalent to the DD Form 1637, Notice of Acceptance of Inventory.

(f) *Demilitarization, mutilation, and destruction.* If demilitarization, mutilation, or destruction of contractor inventory is required, the Contractor shall demilitarize, mutilate, or destroy contractor inventory, in accordance with the terms and conditions of the contract and consistent with Defense Demilitarization Manual, DoD Manual (DoDM) 4160.28–M, edition in effect as of the date of this contract. If the property is available for purchase, the plant clearance officer may authorize the purchaser to demilitarize, mutilate, or destroy as a condition of sale provided the property is not inherently dangerous to public health and safety.

(g) *Classified Contractor inventory.* The Contractor shall dispose of classified contractor inventory in accordance with applicable security guides and regulations or as directed by the Contracting Officer.

(h) *Inherently dangerous Contractor inventory.* Contractor inventory that is dangerous to public health or safety shall not be disposed of unless rendered innocuous or until adequate safeguards are provided.

(i) *Contractor inventory located in foreign countries.* Consistent with contract terms and conditions, property disposition shall be in accordance with foreign and U.S. laws and regulations, including laws and regulations involving export controls, host nation requirements, final governing standards, and government-to-government agreements. The Contractor's responsibility to comply with all applicable laws and regulations regarding export-controlled items exists independent of, and is not established or limited by, the information provided by this clause.

(j) *Disposal of scrap—(1) Contractor scrap procedures.* (i) The Contractor shall include, within its property management procedure, a process for the accountability and management of Government-owned scrap. The process shall, at a minimum, provide for the effective and efficient disposition of scrap, including sales to scrap dealers, so as to minimize costs, maximize sales proceeds, and contain the necessary internal controls for mitigating the improper release of non-scrap property.

(ii) The Contractor may commingle Government and contractor-owned scrap and provide routine disposal of scrap, with plant clearance officer concurrence, when determined to be effective and efficient.

(2) *Scrap warranty.* The plant clearance officer may require the Contractor to secure from scrap buyers a DD Form 1639, Scrap Warranty.

(k) *Sale of surplus Contractor inventory—(1) Sales procedures.* (i) The Contractor shall conduct sales of contractor inventory (both useable property and scrap) in accordance with the requirements of this contract and plant clearance officer direction. The

Contractor shall include in its invitation for bids the sales terms and conditions provided by the plant clearance officer.

(ii) The Contractor may conduct internet-based sales, to include use of a third party.

(iii) If the Contractor wishes to bid on the sale, the Contractor or its employees shall submit bids to the plant clearance officer prior to soliciting bids from other prospective bidders.

(iv) The Contractor shall solicit bids to obtain adequate competition. Negotiated sales are subject to obtaining such competition as is feasible under the circumstances of the negotiated sale.

(v) The Contractor shall solicit bids at least 15 calendar days before bid opening to allow adequate opportunity to inspect the property and prepare bids.

(vi) For large sales, the Contractor may use summary lists of items offered as bid sheets with detailed descriptions attached.

(vii) In addition to providing notice of the proposed sale to prospective bidders, the Contractor may, when the results are expected to justify the additional expense, display a notice of the proposed sale in appropriate public places, e.g., publish a sales notice on the internet, in appropriate trade journals or magazines, and in local newspapers.

(viii) The plant clearance officer or designated Government representative will witness the bid opening. The Contractor shall submit the bid abstract in electronic format to the plant clearance officer within 2 days of bid opening. If the Contractor is unable to submit the bid abstract electronically, the Contractor may submit 2 copies of the abstract manually within 2 days of bid opening. The plant clearance officer will not approve award to any bidder who is an ineligible transferee.

(2) *Required terms and conditions for sales contracts.* The Contractor shall include the following terms and conditions in sales contracts:

(i) For sales contracts or other documents transferring title:

“The Purchaser certifies that the property covered by this contract will be used in [insert name of country]. In the event of resale or export by the Purchaser of any of the property, the Purchaser agrees to obtain the appropriate U.S. and foreign export or re-export license approval.”

(ii) For sales contracts that require demilitarization, mutilation, or destruction of property:

“The following items [insert list provided by plant clearance officer] require demilitarization, mutilation, or destruction by the Purchaser. Additional instructions are provided in accordance with Defense Demilitarization Manual, DoDM 4160.28–M, edition in effect as of the date of this sales contract. A Government representative will certify and verify demilitarization of items. Prepare demilitarization certificates in accordance with DoDM 4160.28, Volume 2, section 4.5, DEMIL Certificate (see figure 2, Example DEMIL Certificate).”

(iii) Removal and title transfer:

“Property requiring demilitarization shall not be removed, and title shall not pass to the Purchaser, until demilitarization has been

accomplished and verified by a Government representative.”

(iv) Assumption of cost incident to demilitarization:

“The Purchaser agrees to assume all costs incident to the demilitarization and to restore the working area to its present condition after removing the demilitarized property.”

(v) Failure to demilitarize:

“If the Purchaser fails to demilitarize, mutilate, or destroy the property as specified in the sales contract, the Contractor may, upon giving 10 days written notice to the Purchaser—

(A) Repossess, demilitarize, and return the property to the Purchaser, in which case the Purchaser hereby agrees to pay to the Contractor, prior to the return of the property, all costs incurred by the Contractor in repossessing, demilitarizing, and returning the property;

(B) Repossess, demilitarize, and resell the property, and charge the defaulting Purchaser with all costs incurred by the Contractor. The Contractor shall deduct these costs from the purchase price and refund the balance of the purchase price, if any, to the Purchaser. In the event the costs exceed the purchase price, the defaulting Purchaser hereby agrees to pay these costs to the Contractor; or

(C) Repossess and resell the property under similar terms and conditions, and charge the defaulting Purchaser with all costs incurred by the Contractor. The Contractor shall deduct these costs from the original purchase price and refund the balance of the purchase price, if any, to the defaulting Purchaser. Should the excess costs to the Contractor exceed the purchase price, the defaulting Purchaser hereby agrees to pay these costs to the Contractor.”

(l) *Restrictions on purchase or retention of Contractor inventory.* The Contractor may not knowingly sell the inventory to any person or that person's agent, employee, or household member if that person—

(1) Is a civilian employee of DoD or the U.S. Coast Guard;

(2) Is a member of the Armed Forces of the United States, including the U.S. Coast Guard; or

(3) Has any functional or supervisory responsibilities for or within DoD's property disposal, disposition, or plant clearance programs or for the disposal of contractor inventory.

(m) *Proceeds from sales of surplus property.* Unless otherwise provided in the contract, the proceeds of any sale, purchase, or retention shall be—

(1) Forwarded to the Contracting Officer;

(2) Credited to the Government as part of the settlement agreement pursuant to the termination of the contract;

(3) Credited to the price or cost of the contract; or

(4) Applied as otherwise directed by the Contracting Officer.

(End of clause)

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