

SUBCHAPTER G—CONTRACT MANAGEMENT

PART M845—GOVERNMENT PROPERTY

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SUBCHAPTER G—CONTRACT MANAGEMENT

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Subpart M845.1—General

M845.101 Definitions.

Significant deficiency means a shortcoming in a contractor's property management system that materially affects the ability of VA officials to rely upon information produced by the system that is needed for management purposes.

M845.102 Policy.

(b) 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 eCMS contract file—

(1) In the Government's best interest. Discussion of the need for Government property should be specific, factual, and where necessary, address actual or projected dollars and percentages. The discussion should address the following factors, as appropriate:

(i) Economy—Furnishing Government property is the lowest evaluated cost or price alternative.

(ii) Standardization—There is a critical need for precise replication.

(iii) Security—Government property is needed due to security issues/concerns.

(iv) Need to expedite production—Government property is crucial to achieving timely or accelerated delivery of a supply item or service, including construction.

(v) Scarcity—The Government can obtain scarce items, or is the only source of property necessary for successful execution of a contract.

(vi) Contract type—Government property will enable the Government to obtain a more favorable contract type.

(2) Overall benefit. Demonstrate that the overall benefit to the acquisition significantly outweighs the increased cost of administration, including property disposal.

(i) 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 disposal of environmentally-regulated property, must be included.

(ii) 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.

(3) Government assumption of risk. Demonstrate that providing the property does not substantially increase the Government's risk.

(i) 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.

(ii) Other risks may need to be considered, discussed, and documented.

(4) Government requirements cannot otherwise be met. Document why the furnishing of Government property is critical and significant to meeting the acquisition's objectives.

M845.102-70 Accountability of Government property.

Government property, as defined at FAR 45.101, must be contractually accountable to a single contract and only one contract at a time. This requirement applies to both Government-furnished property and contractor-acquired property. Although accountable to only one contract at a time, contract terms and conditions may allow Government property to be used on other contracts (see FAR 52.245-9, Use and Charges).

M845.103 General.

M845.103-70 Property administrator.

The property administrator function is generally delegated by the contracting officer to the contracting officer representative.

M845.103-71 Furnishing Government property to contractors.

The requiring office (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 office and provided to the contracting officer. Such documentation is not required when

contractors are furnished property for repair, maintenance, modification, or overhaul under a contract.

M845.105 Contractors' property management system compliance.

(b) Disposition of findings.

(1) Initial determination:

(i) 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.

(ii) Evaluation of contractor's response. Within 30 days of receiving the contractor's response, the contracting officer, in consultation with the property administrator, should evaluate the contractor's response and make a final determination.

(2) Final determination:

(i) Monitoring contractor's corrective action. The contracting officer and property administrator shall monitor the contractor's progress in correcting deficiencies.

(ii) Correction of significant deficiencies.

(A) 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.

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

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

(c) 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 actions the contracting officer can take are—

(1) Withdrawing or withholding approval of the system;

(2) Bringing the issue to the attention of higher level management;

(3) Considering the property control deficiencies in determining contractor's responsibility (see FAR 9.104-1(e)); and

(4) Documenting the deficiencies in the Contractor Performance Assessment Reporting System (CPARS).

M845.106-70 Transferring Government property accountability.

(a) Use only the Standard Form 30 to execute transfers of Government property accountability between existing contracts. No other forms or documents are authorized for the transfer of Government property accountability from one contract to another.

(b) Modifications for the transfer of Government property accountability shall incorporate FAR clause 52.245-1, Government Property, if the gaining contract lacks this clause.

Subpart M845.4—Title to Government Property

M845.402 Title to contractor-acquired property.

M845.402-70 Policy.

Oversight and visibility of contractor acquired property should be limited to reviews and audits of contractor accounting and property management systems. Ad-hoc contractor generated reports of contractor-acquired property used by government personnel for property accountability can result in duplicate accountability records, inefficient operations, and increased program costs, and are discouraged.