



Roles and Responsibilities of Program Managers

For Government/Contract Property



CURRENT CONCERNS

Government/Contract Property Issues

- Government/Contract Property has come under increased scrutiny due to audits, reviews, and statutory requirements
- Government Property (GP) provided to contractors for performance of a contract requires additional attention
- Program Manager (PM) has initial responsibility for addressing GP concerns in the acquisition process



TOPICAL OVERVIEW

In this training module, we will discuss:

- Roles and responsibilities of Program Managers (PM) with regard to Government/Contract Property within the acquisition process
- The Statutory and Regulatory requirements for Government/Contract property
- Specific applications that apply to the proper management of Government/Contract property
- Other Government representatives involved in the process
- Issues that impact deliverable end items that become Government Property (GP)



PROGRAM MANAGER

Responsibilities of Program Managers (PM)

- Accomplish program objectives for development, production and sustainment to meet user's operational needs
- Accountable for credible cost, schedule and performance reporting to the Milestone Decision Authority (MDA)
- Ensure the acquisition program requirements and actions relating to Government/ Contract property are anticipated, addressed and performed within and for their program



STATUTORY BACKGROUND

Understanding the requirements



CHIEF FINANCIAL OFFICER ACT OF 1990

Chief Financial Officer (CFO) Act of 1990

- This Act was passed in order to address improvements in the federal government's financial management practices, systems, and reporting
- Developed integrated business processes in the Government to strengthen existing audit requirements by requiring agencies to issue an annual management report to Congress that includes financial statements, management's statement on internal controls, and the financial auditor's report
- To enable the integrated environment, the Under Secretary of Defense (Acquisition Technology and Logistics) (USD(AT&L)) partnered with the USD (Comptroller) (USD(C)) to develop a plan addressing data management of GP at the enterprise level
 - USD (AT&L) established several property management goals, which fall into five areas:
 - Government Furnished Property (GFP) Management Capabilities
 - GFP Management Governance
 - Property Accountability Capabilities
 - Unique Identification Capabilities
 - Unique Identification Governance



CHIEF FINANCIAL OFFICER ACT OF 1990

The Project Manager is a **key stakeholder** to ensure the Department of Defense complies with the CFO Act requirements, in regards to Government/Contract property!





NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010

PUBLIC LAW 111-84, dated OCT. 28, 2009

- Entitled National Defense Authorization Act (NDAA) for Fiscal Year 2010
- Imposed requirement regarding the Financial Management of the Department of Defense

TITLE X – GENERAL PROVISION, Subtitle A – Financial Matters, Sec. 1003

- Entitled “Audit readiness of financial statements of the Department of Defense”
- Set forth a number of requirements on DoD of:

- *“improving the accuracy and reliability of management information on the Department’s mission-critical assets (military and general equipment, real property, inventory, and operating materials and supplies) and validating its accuracy through existence and completeness audits”*
- *This action has to be validated as “ready for audit by not later than September 30, 2017.”*

AUDIT READINESS “MANDATED” BY 9/30/2017



NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010

- The PM plays a critical role when:
 - Acquiring “the Department’s mission critical assets”
 - Managing the Government/Contract property accountable to their programs and contracts
- Within this training, the PM’s critical responsibility for accountability and management of Government/Contract property will be discussed

**Mission critical assets include:
military and general equipment, real
property, inventory, and operating
materials and supplies!**



THE DEFENSE ACQUISITION SYSTEM



THE DEFENSE ACQUISITION SYSTEM

DoD 5000 Series of Instructions and Regulations

- The cornerstones of the Defense Acquisition System for acquiring:
 - Weapon systems
 - Automated information systems
 - Services
- DoDI 5000.02 provides guidance and direction to the GOVERNMENT in regard to Contract/Government Property.
 - http://www.dtic.mil/whs/directives/corres/pdf/500002_interim.pdf



THE DEFENSE ACQUISITION SYSTEM

Interim DoDI 5000.02

Dated 11/23/2015

- States that the PM will address:
 - The government accountable property system that documents all government owned property whether it is held and managed by the government, contractor, or third party, in accordance with 40 U.S.C. 524.
- Note: Each DoD Component may have its own accountable property system. For example:
 - Army uses Property Book Unit Supply Enhanced (PBUSE) and Defense Property Accountability System (DPAS)
 - Air Force uses the Air Force Equipment Management System (AFEMS)



THE DEFENSE ACQUISITION SYSTEM

- Program Managers **MUST** be aware of their department's accountable property system for all Government owned property accountable to their program
 - *Whether it is held and managed by the government, contractor, or third party, in accordance with 40 U.S.C 524.*
- PMs have fiduciary responsibilities to control, supervise, and manage all property in their care



▪ U.S.C. Title 40 Section 524

“(a) REQUIRED.—Each executive agency shall—

- (1) maintain adequate inventory controls and accountability systems for property under its control;
- (2) continuously survey property under its control to identify excess property;
- (3) promptly report excess property to the Administrator of General Services;
- (4) perform the care and handling of excess property; and
- (5) transfer or dispose of excess property as promptly as possible in accordance with authority delegated and regulations prescribed by the Administrator.

- <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title40/pdf/USCODE-2011-title40-subtitle-chap5-subchapII-sec524.pdf>



USC Title 40 Section 524

- Each Department has a statutory requirement to maintain
 - **adequate inventory controls and**
 - **accountability systems for property under its control**
- PMs, in providing Government/Contract property to contractors, need to be aware that *property provided to a contractor* must remain on the Government's accountable property records



Department of Defense Instruction (DODI) 5000.64

“Accountability and Management of DoD
Equipment and Other Accountable Property”



DoDI 5000.64 Purpose: Establishes guidance for Accountability and Management of DoD Equipment and Other Accountable Property

- Establishes policy and procedures to comply with:
 - 40 U.S.C. 524, *Property Management and use of Property*
 - 31 U.S.C. 901, Establishment of agency Chief Financial Officers
- Outlines requirements reflecting accountability perspectives of property management to include life cycle events and transactions
- Complements the DoD Financial Management Regulation (FMR) (DoDI 7000.14-R)



Accountable Property System of Record (APSR) is:

- The business system/application used to account for and maintain accountability of Government Property
- The business system/application that represents authoritative official records for the GP it is responsible for
- Reflects appropriate updates to property as a result of life cycle transactions
- Only one official system of record for a given item



DODI 5000.64

The instruction requires the following **DATA ELEMENTS** are to be established and maintained for every item of accountable property:

(a.) Name, Part Number and Description

(b.) Owner

(c.) Status

(d.) Quantity

(e.) General Ledger Classification

(f.) Value

(g.) Estimated Useful Life

(h.) Unique Item Identifier (UII)

(i.) Date Placed in Service

(j.) Location

(k.) Current Condition

(l.) Posting Reference



DoDI 5000.64: Requires Appointment of Accountable Property Officer (APO)

“APO is responsible for establishing and maintaining the organization’s accountable property records.”

Key Concepts:

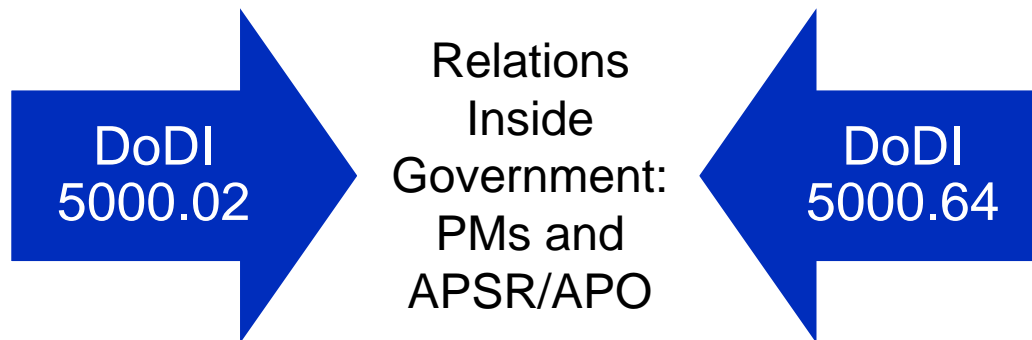
- PMs do not maintain all data independently
- PM and APO must collaborate effectively to maintain accountability
- Property provided to contractor must be planned and included in contract

A close working relationship is a **must** for PM & APO!



Relationship between PM and DoDI 5000.64

- So far, we have seen the linkage between the Interim DoDI 5000.02 and DoDI 5000.64 relating to GP WITHIN the Government



- Also, another relationship that must be considered:
 - Where PMs make decisions to provide GP to prospective contractor

APOs must be included in the Acquisition Process!



Relationship between PM and DoDI 5000.64

Program Manager's Acquisition & Providing Government Property to Third Parties

- DoDI 5000.64, Enclosure 3, Paragraph 3:
“PROPERTY FURNISHED TO A THIRD PARTY”
- This paragraph states, “Although the Department of Defense may not have physical custody, in order to maintain effective property accountability and for financial reporting purposes, DoD Components shall establish and maintain records and accountability for property (of any value) furnished to contractors as Government furnished property (GFP). This requirement also includes property that is loaned to outside entities such as Federal agencies, State and local governments, and foreign governments.” Essentially we are talking about the requirement to maintain records of Government property even when it is provided to contractors or other third parties outside the Department as Government furnished property.



Relationship between PM and DODI 5000.64

- PMs MUST understand the relationship between the **fiduciary accountable records** that the **Government establishes** and maintains for Government property in its possession and the **stewardship records** that the **contractor establishes** and maintains when Government property is provided under a contract.

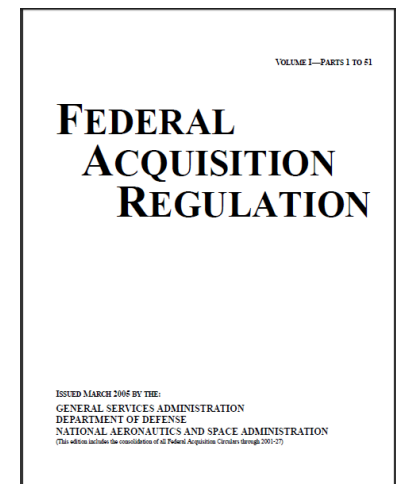




PM and Contracting Officer

For Government Property Provided to Contractor...

- ✓ PMs must understand their relationship with the Contracting Officer (CO)
- ✓ The CO ensures FAR & DFARS requirements are met and the contract reflects FAR/DFARS requirements





Questions?



FAR and DFARS Contract & Government Property Requirements

Program Managers Responsibilities



FAR Contract Government Property Requirements

We will address the following
topics:

Policy on providing Government Property

GFP Listings

Incorporation of Required Clauses

Government/Contract Property Personnel

Disposal Requirements



FAR Contract Government Property Requirements

FAR 45.102

- States the Government's policy on providing GP to Contractors:

(a) Contractors are ordinarily required to furnish all property necessary to perform Government contracts.

(b) Contracting officers shall provide property to contractors only when it is clearly demonstrated—

- (1) To be in the Government's best interest;
- (2) That the overall benefit to the acquisition significantly outweighs the increased cost of administration, including ultimate property disposal;
- (3) That providing the property does not substantially increase the Government's assumption of risk; and
- (4) That Government requirements cannot otherwise be met.

(c) The contractor's inability or unwillingness to supply its own resources is not sufficient reason for the furnishing or acquisition of government property.



DFARS Contract Government Property Requirements

FAR 45.102
Requirements

- These requirements are Decision Points

DFARS contains
Procedures,
Guidance, and
Information (PGI)

- PGI 245.103-70, entitled "Furnishing Government Property to Contractors"

PGI
245.103-70
states:

- "(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."

NOTE: FAR 7.105(b)(15) provides top level guidance for this requirement!



DFARS Contract Government Property Requirements

- The DFARS PGI at 245.103-70 elaborates on the requirements set forth at FAR 45.102. It provides guidance to the PM on factors to consider, such as:
 - Must be in the Government's best interests,
 - Cost and Risk to Government must not increase and
 - The criticality of the specific Government property in regard to the overall acquisition plan objectives.

- Analysis of these factors and decisions made must be documented and included as part of the acquisition plan!



FAR Contract Government Property Requirements

FAR 45.201(a)

- Requires that any Government furnished property provided to a contractor **MUST** be specified in the Contract

45.201(a). The contracting officer shall insert a listing of the Government property to be offered in all solicitations where Government-furnished property is anticipated (see 45.102). The listing shall include at a minimum –

- (1) The name, part number and description, manufacturer, model number, and National Stock Number (if needed for additional item identification tracking and management, and disposition);
- (2) Quantity/unit of measure;
- (3) Unit acquisition cost;
- (4) Unique-item identifier or equivalent (if available and necessary for individual item tracking and management);
- (5) A statement as to whether the property is to be furnished in an “as-is” condition and instructions for physical inspection.



DFARS Contract Government Property Requirements

DFARS PGI 245.103-72, “Government-furnished property attachments to solicitations and awards”

- DFARS mandates greater specifics of data requirements when furnishing GP than the FAR provides
- Requires the use of specific PDF fillable forms: (You can click on the links below to find these forms)
 - Requisitioned Government Furnished Property
http://www.acq.osd.mil/dpap/pdi/pc/docs/RequisitionedGovernmentFurnishedProperty-VERSION1.3_distributed_0005.pdf
 - Scheduled Government Furnished Property
http://www.acq.osd.mil/dpap/pdi/pc/docs/ScheduledGovernmentFurnishedProperty-VERSION1.4_distributed_.pdf



GP Clause Requirements

- FAR and DFARS property clauses serve a very specific purpose!
- It is critical for the PM and the PCO to understand and properly apply these clauses.
- With the inclusion of a GP clause in the contract, other professionals come into the contracting process, specifically:
 - ✓ The Property Administrator (PA) and
 - ✓ The Plant Clearance Officer (PLCO)





Property Administrator Responsibilities

- Establish internal administrative records of the contracts/contractors assigned to them for administration
- Provide oversight of a Contractor's Property Management System (PMS) and its procedures through a Property Management System Analysis (PMSA)
 - This audit covers the contractually required processes and outcomes set forth in the GP clause, FAR 52.245-1(f) and determines the adequacy of a contractor's PMS
- Handle GFP discrepancies incident to shipment
- Investigate Loss of GP



PM's Relationship with the PA

Program Manager will not directly interact with Property Administrator

- PA is an agent of the Contracting Officer with government property responsibilities as set forth in the FAR and DFARS
- Program Manager primarily will rely upon the PA's assessment of the Contractor's Property Management System.
- PA's evaluation of the Contractor's Property Management System indicates the quality and integrity of the Contractor's data and the degree the PM can rely upon Contractor reporting
- PM can rely upon the PA's investigation as reported to the Contract Officer into the Loss of Government Property
- Key activities PA DOES NOT perform
 - Physical inventory of government property
 - Maintenance of Government Property Records



GOVERNMENT PROPERTY DISPOSAL

PM Concern: Disposing of GP

- If the PM has properly planned the acquisition and **known requirements** are included for any GP accountable to contract, then **disposition instructions** should be included in the contract!

Known Requirement may include:

- Sustainment of the system

Disposition Instruction may be:

- Shipment to a Government storage facility

- **The Plant Clearance Officer (PLCO):** the authorized Government representative and technical expert responsible for directing the disposition and disposal of GP in the possession of the Contractor.

Note: Similar to the requirements for GP management set forth in the GP clause(s), there are also requirements for proper reporting of excess GP in the clause, and directions which bind the Contractor (and Government) in affecting disposition and disposal of GP.



PM AND GP RETENTION

DODI 5000.02, Enclosure 6

- Regarding disposition of Government property, this instruction requires the PM develops a ***Preservation and Storage of Unique Tooling Plan***

Key Points Provided:

- The plan should support Milestone C
- Must include the review cycle of assessing tool retention across the system's life
- Waiver must be submitted if a Milestone Decision Authority determines preservation and storage of tooling is no longer required



CONTRACTOR REPORTING OF EXCESS GP

If no disposal directions are provided in the contract, the contractor must:

Comply with the reporting and disposition/disposal of the GP clause, FAR 52.245-1, and the direction provided by the PLCO unless other authorized direction is provided

- Paragraphs (j) and (k) of the FAR 52.245-1 provide specific requirements

Along with FAR clause, the contractor is required to the DFARS Clause at 252.245-7004 to report excess GP to the PLCO

- DFARS Clause 252.245-7004 is entitled "Reporting, Reutilization and Disposal"
- Contractor uses a web based system, Plant Clearance Automated Reutilization Screening System (PCARSS) to report to PLCO

The PLCO uses PCARSS to "Screen for reutilization" and provides visibility of this excess GP to numerous activities

- Activities may include: the Program Office, the Agency, GSA, and even State Agencies for Surplus Property (SASPs) in an attempt to reutilize this property

NOTE: In some instances, contracts may direct Contractors to make use of the Defense Logistics Agency Disposition Services. See the Defense Material Disposition Manual 4160.21-M, specifically Chapter 4.B.14, for further guidance.



PLCO Responsibilities

Screening of the excess Government property to achieve maximum utilization

- Requirements are set forth in FAR 45.6, and corresponding DFARS subpart
- These requirements have their foundation in law, statute and regulation, such as:
 - The Federal Property and Administrative Services Act of 1949, as revised
 - Federal Management Regulation (FMR), for Property at 41 CFR Chapter 101

After Screening, the PLCO has authority to direct the contractor to effect disposition or disposal of GP through various methods:

- Reuse within the Government
- Directing the Sale of GP
- Shipment
- Scrapping
- Donation
- Abandonment



PM DISPOSAL REQUIREMENTS

DODI 5000.02, Enclosure 6

- Paragraph 2, Sustainment Across the Life Cycle, a.(6) directs PMs to:
 - *Begin demilitarization and disposal **planning** of system, subsystems, or components, with sufficient lead time before the disposal or retirement of the first asset to reduce costs and risks and to ensure compliance with statutory and regulatory requirements.*
- Therefore, PMs should not wait until contract completion to consider effective and efficient methods of disposal – instead, take a proactive approach in the acquisition planning stages!





A DISPOSAL CONCERN

Additional Funding for Disposal

- The PLCO may direct actions that require additional funding, e.g., Demilitarization and disposal of Hazardous Wastes
- These actions may be considered unfunded liabilities
- Generally, the Government will have to pay the contractor to accomplish proper disposal
 - Demilitarization items must be done in accordance with the Demilitarization Manuals (DoD Manual 4160.28 Vol. 1, 2 and 3)
 - Hazardous wastes items must follow the applicable Federal, State and local laws

It is important for the PMs to be aware of these requirements and the needs for funding during the acquisition planning stage!



THE PM and IUID Requirements

Application of the Item Unique Identification (IUID) Requirements

- Another area that impacts the requirements of the Chief Financial Officer Act and DoD Financial Management
- DODI 5000.02, Enclosure 3, provides direction to the PM. It states:
 - ITEM UNIQUE IDENTIFICATION. The Program Manager will plan for and implement item unique identification to identify and track applicable major end items, configuration controlled items, and government-furnished property to enhance life-cycle management of assets in systems acquisition and sustainment, and to provide more accurate asset valuation and property accountability. Item unique identification planning and implementation will be documented in an Item Unique Identification Implementation Plan linked to the program's Systems Engineering Plan (SEP) (DoD Instruction 8320.04).

There is EXTENSIVE guidance in regard to IUID requirements and application available at:

<http://www.acq.osd.mil/dpap/pdi/uid/index.html>



SUSTAINMENT PHASE

So far, most of our discussions have dealt with pre-award and post award Program and Contracting issues

- One additional topic to discuss is that of GP in the sustainment phase of the system





Sustainment Requirements

The PM is required to address the issue of GP and sustainment requirements

DODI 5000.02 addresses this issue under the operations and support phase at Paragraph d.(14)(B)(1):

Life-Cycle Sustainment

During this phase, the Program Manager will deploy the product support package and monitor its performance according to the Life Cycle Sustainment Plan (LCSP). The LCSP may include time-phased transitions between commercial, organic, and partnered product support providers. The Program Manager will ensure resources are programmed and necessary Intellectual Property (IP) deliverables and associated license rights, tools, equipment, and facilities are acquired to support each of the levels of maintenance that will provide product support; and will establish necessary organic depot maintenance capability in compliance with statute and the LCSP.”



Sustainment Requirements

Product Support Strategy

- The last two issues relating to GP in the Life-Cycle Sustainment Planning phase
- Discussed in Enclosure 6 of DODI 5000.02
- “The product support strategy will address at a minimum:”

- *6. The use of existing government owned inventory prior to use of product support arrangements as required in 10 U.S.C. 2337 (Reference (n)).*
- *7. The government accountable property system that documents all government owned property whether it is held and managed by the government, contractor, or third party, in accordance with 40 U.S.C. 524 (Reference (q)).*



SUMMARY

Within this training module, we have touched upon all the following:

- Provided emphasis on the proper management of GP to comply with various statutory requirements, including:
 - ❖ The Chief Financial Officer Act of 1990
 - ❖ The National Defense Authorization Act of 2010

- Addressed the responsibilities of the PM in regard to requirements within the Defense Acquisition System for Government/Contract property during the program's life cycle

- Discussed the requirements in regard to providing Government/Contract property to contractors from:
 - ❖ DODI 5000.02
 - ❖ DODI 5000.64
 - ❖ USC Title 40 Section 542
 - ❖ FAR
 - ❖ DFARS



SUMMARY

- Provided a cursory overview of the relationship of various other Government representatives:
 - ❖ Contracting Officer
 - ❖ Property Administrator (PA)
 - ❖ Plant Clearance Officer (PLCO)
 - ❖ Accountable Property Officer (APO)

- Addressed a few related issues impacting deliverable end items that become Government Property:
 - ❖ Accountable Property System of Record (APSR)
 - ❖ IUID requirements



GOVERNMENT PROPERTY CLAUSES - RESOURCES

Resources Used:

P&PE Policy Website

- <http://www.acq.osd.mil/pepolicy/index.html>

DoDi 5000.02

- http://www.dtic.mil/whs/directives/corres/pdf/500002_interim.pdf

DoDI 5000.64

- <https://dap.dau.mil/policy/Lists/Policy%20Documents/DispForm.aspx?ID=1643>

FAR Guidance

- <http://www.acquisition.gov/far>

DFARS PGI DFARS Guidance

- <http://farsite.hill.af.mil/VFDFARA.HTM>

DFARS PGI

- <http://www.acq.osd.mil/dpap/dars/dfars/changenotice/2014/20140311/pgi-changes-20140311.pdf>

Government Furnished Property

- http://www.acq.osd.mil/pepolicy/accountability/accountability_GFP.html

National Defense Authorization Act for Fiscal Year 2010

- <https://www.govtrack.us/congress/bills/111/hr2647>

U.S.C. Title 40 Section 524

- <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title40/pdf/USCODE-2011-title40-subtitleI-chap5-subchapII-sec524.pdf>