





CONTRACT PROPERTY MANAGEMENT SYSTEM REQUIREMENTS

Breakout Session # WC11-282
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2:30 pm - 3:45 pm



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CONTRACT PROPERTY MANAGEMENT SYSTEM

Within our society, including Government and Industry, we often require, use and apply "SYSTEMS!"

We expect those "Systems" to operate efficiently, effectively, reliably and even sometimes without us giving to much thought to it or them.

Some Examples:



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CONTRACT PROPERTY MANAGEMENT SYSTEM

Within Federal Government Contracting we use the Federal Acquisition Regulations (FAR) as our controlling guidance and regulatory requirement.

Within the FAR we have guidance and regulation regarding Government Property...

...Government Property within the possession, control, STEWARDSHIP of CONTRACTORS.



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CONTRACT PROPERTY MANAGEMENT SYSTEM

But – before we get into the FAR Requirements (With a touch of the DFARS thrown in for Warning) we need some definitions!!!!





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DEFINITIONS

SYSTEM:

- Organization of functionally interactive units for the achievement of a common goal. All systems have inputs, outputs, feedback and maintain a basic level of equilibrium.
 - Barron's Dictionary of Business Terms
- Any organized assembly of resources and procedures united and regulated by interaction or interdependence to accomplish a set of specific functions.
- A collection of personnel, equipment, and methods organized to accomplish a set of specific functions.
 - http://www.atis.org/tg2k/_system.html
- A regularly interacting or interdependent group of items forming a unified whole
 - <http://www.m-w.com/dictionary/system>




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DEFINITIONS

PROPERTY CONTROL SYSTEM:
 The system that identifies a contractor's internal management program encompassing the protection, preservation, accounting for, and control of property from its acquisition through disposition.
 (4161.2-M DoD Property Manual)

PROPERTY MANAGEMENT SYSTEM:
 means the Contractor's system or systems for managing and controlling Government property.
 DFARS 252.245-7003
 Contractor Property Management System Administration



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CONTRACT PROPERTY MANAGEMENT SYSTEM

- So, the next item we have to discuss are the FAR requirements for a Property Management System (PMS) for Government Property in the possession of the Contractor.




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A PRE-AWARD PMS Requirement

- A new Requirement, not called out in the GP clause but found in FAR POLICY is for the "PROSPECTIVE" Contractor to provide the CO with a Property Management Plan.
 – FAR 45.201




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FAR 45.201 Solicitation

- The CO ... shall require all offerors to submit the following information with their offers—
 - (c)(4) The voluntary consensus standard or industry leading practices and standards to be used in the management of Government property, or existing property management plans, methods, practices, or procedures for accounting for property.


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FAR 45.201 Solicitation

- So, I have two Questions:

<p>CONTRACTING OFFICERS</p> <p>– have you been asking, nay REQUIRING Contractors to submit their Property Management Plans with their proposals?</p>	<p>CONTRACTORS</p> <p>– have you been SUBMITTING your Property Management Plans with your proposals?</p>
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FAR 52.245-1 Government Property Clause

- In the 2007 FAR GP Rewrite, we reduced the number of GP related clauses from Nineteen to Three.
- FAR 52.245-1 is the Primary GP clause containing the FAR requirements for the Management and Control of GP
 - (Both Government Furnished (GFP) and Contractor Acquired (CAP))

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**FAR 52.245-1
Government Property Clause**

- Though the clause has numerous requirements and directions to the contractor – there are two paragraphs that provide clear direction in regard to the contractor’s PMS:
 - (b) entitled “Property Management”
 - (f) entitled “Contractor Plans and Systems”

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**FAR 52.245-1 (b)
Property Management**

(1) The Contractor shall have a **SYSTEM** to manage (control, use, preserve, protect, repair and maintain) Government property in its possession. The system shall be adequate to satisfy the requirements of this clause....




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**FAR 52.245-1
(b) Property Management**


- (1) ...In doing so, the Contractor shall initiate and maintain the processes, systems, procedures, records, and methodologies necessary for effective control of Government property, consistent with voluntary consensus standards and/or industry-leading practices and standards for Government property management except where inconsistent with law or regulation....

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**FAR 52.245-1
(b) Property Management**

- (1)During the period of performance, the Contractor shall **disclose** any **significant changes** to their property management system to the Property Administrator **PRIOR** to implementation.




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**FAR 52.245-1
(b) Property Management**

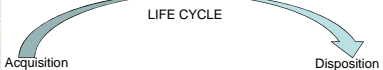
- (2) The Contractor's responsibility extends from the **initial acquisition and receipt of property**, through stewardship, custody, and use until formally relieved of responsibility by authorized means, including delivery, consumption, expending, sale (as surplus property), or other **disposition**, or via a completed investigation, evaluation, and final determination for lost, stolen, damaged, or destroyed property....

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**FAR 52.245-1
(b) Property Management**

- This paragraph introduces by way of regulation the **LIFE CYCLE** approach applied to Government property for the past 40 years.
 - How many of you remember the days of the ASPR and DAR
 - ASPR Supplement 3 delineated DoD's approach to surveillance which both the Professional Association of the NPMA adopted as well as 95% of the contractors with Government Property.



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**FAR 52.245-1
(b) Property Management**

- (2) This requirement applies to **ALL** Government property under the Contractor's accountability, stewardship, possession or control, **including its vendors or subcontractors**
 – (see paragraph (f)(1)(v) of this clause).

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**FAR 52.245-1
(b) Property Management**

- (3) The Contractor **shall include the requirements of this clause in all subcontracts** under which Government property is acquired or furnished for subcontract performance.

Flow Down Requirement



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**FAR 52.245-1 (f)
Contractor Plans and Systems**

(f) Contractor plans and systems.
 (1) Contractors shall establish and implement **property management plans, systems, and procedures** at the contract, program, site or entity level to enable the following outcomes:


And now the BIG part!

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FAR 52.245-1 (f) Contractor Plans and Systems

- Paragraph (f) calls out all of the **PROCESSES** and **OUTCOMES** the Government expects to see addressed and applied within a PMS.



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FAR 52.245-1 (f) Contractor Plans and Systems

- Acquisition
- Receiving
 - Identification (Embedded)
- Records
- Physical inventories
- Subcontractor Control
- Reports
- Relief of Stewardship
- Utilizing
 - Consumption, Storage and Movement (Embedded)
- Maintenance
- Contract Closeout

We have 10
PROCESSES
or do we?

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FAR 52.245-1 (f) Contractor Plans and Systems

- We can really break these out into 16 Processes!

• Acquisition	• Utilizing
• Receiving	• Consumption
• Identification	• Storage and
• Records	• Movement
• Physical inventories	• Maintenance
• Subcontractor Control	• Contract Closeout
• Reports	• Disposal
• Relief of Stewardship	• Self Assessment or Audit

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CONTRACTOR'S PMS



Interaction of Para.s (b) and (f)

- It is Critical that you understand that PARAGRAPHS (b) and (f) are interconnected and interdependent!!!
 - Para. (b) mandates/requires that you have a **“SYSTEM”**
 - Para. (f) mandates the **OUTCOMES** and **PROCESSES** that **MUST** be addressed in that “system.”


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CONTRACTOR'S PMS

- The Expectation:
 - “SYSTEM” - IN PMS CONTEXT there are TWO components:
 - Must have **WRITTEN PROCEDURES** 
 - There must be **APPLICATION/ COMPLIANCE** 


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CONTRACTOR'S PMS

O.k., so we talked about the Requirement for a **“SYSTEM”** (Para (b)) and the requirement to use the LIFE CYCLE processes!

But We also threw in two new concepts:


 Voluntary Consensus Standards (VCS) and Industry Leading Practices (ILP)

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VOLUNTARY CONSENSUS STANDARDS (VCS)

- The Government **MANDATES**, by Law and Regulation, that we use VCSes:
 - National Technology Transfer and Advancement Act of 1995, Pub. L. 104-113
 - OMB Circular A-119, “Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities”
 - FAR 11.101



VOLUNTARY CONSENSUS STANDARDS (VCS)

- FAR 2.101 – Definitions
 - “Voluntary Consensus Standards” means common and repeated use of rules, conditions, guidelines or characteristics for products, or related processes and production methods and related management systems. Voluntary Consensus Standards are developed or adopted by domestic and international voluntary consensus standard making bodies.



EXAMPLES OF VCS BODIES



Logos shown include: Deutsches Institut für Normung (DIN), IEEE, BS, ISPE, ASCE (American Society of Civil Engineers), ASME, CANADIAN STANDARDS ASSOCIATION, NSF, ICC, IP, ASTM INTERNATIONAL, NEMA, NFPA, American Petroleum Institute, ANACE, International Electrotechnical Commission, AAMI, and International Organization for Standardization (ISO).




THE OTHER NEW TERM... INDUSTRY LEADING PRACTICE

- **FAR DEFINITION OF ILP**
- THERE IS **NO FAR DEFINITION** OF “INDUSTRY LEADING PRACTICE (ILP)!!!”
- **HOWEVER**, something close is the following definition of “**BEST PRACTICE**”



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BEST PRACTICE

- A best practice is composed of policies, principles, standards, guidelines and procedures that contribute to the highest, most resource-effective performance of a discipline. Best practices are based upon a broad range of experience, knowledge and extensive work with industry leading clients.

- (Attributed to The Gartner Group, footnote #32 in the book, "Real Process Improvement Using the CMMI," by Michael West)


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ILP

- **Not Wanting to be Outdone...**
- **CONCEPTUALIZATION FROM THE DOD PROPERTY MANUAL REWRITE TEAM**
 - Industry leading practices (ILP) are generally accepted processes, including best practices, that have been proven throughout related businesses, to be **managerially and economically effective, efficient, and successful** at meeting particular objectives of a contractor's management system, and where specified, in compliance with the **required Government Outcomes.**


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ILP

- The ILP should be based on **empirical research, evidence and literature** pertaining to that business practice, product or system as a “leading” practice. In order for a process to become an ILP, it should be widely used. Generally, there should be supporting historical data from an accepted source, e.g., trade publications, literature, etc., to support that process as being **repeatable, efficient, measurable, and verifiable.**


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ILP

- **Some Examples:**
 - There are numerous Government Accountability Office (GAO) reports that clearly define, describe and document ILPs, e.g., GAO Report 02-447G, entitled “Best Practices in Achieving Consistent, Accurate Physical Counts of Inventory and Related Property.”
 - <http://www.gao.gov/new.items/d02447g.pdf>

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ILP

- **Some Other Examples:**
 - **Balanced Scorecard**
 - <http://www.balancedscorecard.org/BSCResources/AbouttheBalancedScorecard/tabid/55/Default.aspx>
 - **Generally Accepted Auditing Standards**
 - **Six Sigma/ Lean Six Sigma**
 - **Best Practices Clearinghouse**
 - <https://bpch.dau.mil/Pages/default.aspx>
 - **Plus lots more that are accepted and used by corporations and the Government....**

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EXAMPLES OF ILP










Let's Delete This One!

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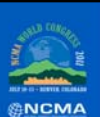


CONTRACTOR'S RESPONSIBILITIES FOR A PMS

- In the **SIMPLEST** of terms:
 - Prepare a Property Management System
 - WRITTEN Procedures for all PROCESSES
 - APPLICATION/COMPLIANCE with Procedures
 - I.e., DO what you said you would Do!
 - Meeting **ALL** of the GP Clause requirements including the:
 - APPLICATION OF VCSes
 - APPLICATION OF ILPs

And one hidden requirement! See Next Slide...

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CONTRACTOR'S RESPONSIBILITIES FOR A PMS

- Under Para. (f) – the very last item!
 - (3) The Contractor shall establish and maintain procedures necessary to assess its property management system effectiveness, and shall perform **periodic internal reviews and audits**. Significant findings and/or results of such reviews and audits pertaining to Government property shall be made available to the Property Administrator.
 - Contractors are now required to do their own **INTERNAL AUDITS** on their PMS.
 - And Report "SIGNIFICANT" Findings

Contractors – are you doing this?


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DOD Property Administrator's (PA) Responsibilities


- Planning, developing and performing a PMS Analysis or Audit to assess and determine the effectiveness of the contractor's property management systems.
- Evaluating the contractor's internal audit processes, procedures and results as well as assisting in the development of the protocols for their use in evaluating their property management processes.
- Evaluating the contractor's compliance with contractual requirements, VCSeS and ILPs, in order to determine the adequacy of the contractor's property management processes throughout the property life cycle.
- Requesting Corrective Action when deficiencies are disclosed.

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And Even the Contracting Officer Administering the Contract May be involved!

- If the PA is unsuccessful in obtaining Corrective Action regarding the PMS – the ACO may request Contractor take Corrective Action for PMS.
- If the PMS is deemed **"INADEQUATE"** the ACO **MAY** withdraw Government's assumption of risk when advised by the PA based upon PMS review and status.



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BUT – there is a BRAND NEW CHANGE. AND IT'S A BIGGEE!!!

- Based upon a Proposed DFARS CASE, DoD has issued an Interim Rule effecting six different "SYSTEMS" including:
 - Accounting System
 - Estimating System
 - Purchasing System
 - Earned Value Management System ("EVMS")
 - Material Management and Accounting System ("MMAS") and



GOVERNMENT PROPERTY SYSTEM


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DFARS 252.245-7003



- Contractor Property Management System Administration
 - “Acceptable property management system” means a property system that complies with the system criteria in paragraph (c) of this clause.
 - “Property management system” means the Contractor’s system or systems for managing and controlling Government property.
 - “Significant deficiency” means a shortcoming in the system that materially affects the ability of officials of the Department of Defense to rely upon information produced by the system that is needed for management purposes.







DFARS 252.245-7003



- (b) *General.* The Contractor shall establish and maintain an acceptable property management system. Failure to maintain an acceptable property management system, as defined in this clause, may result in **disapproval of the system by the Contracting Officer and/or withholding of payments.**
- (c) *System criteria.* The Contractor’s property management system shall be in accordance with **paragraph (f)** of the contract clause at **Federal Acquisition Regulation 52.245-1.**







DFARS 252.245-7003

- (d) *Significant deficiencies.*
 - (1) The Contracting Officer will provide an initial determination to the Contractor, in writing, of any **significant deficiencies.** The initial determination will describe the deficiency in sufficient detail to allow the Contractor to understand the deficiency.
 - (2) The Contractor **shall respond within 30 days** to a written initial determination from the Contracting Officer that identifies significant deficiencies in the Contractor’s property management system. If the Contractor disagrees with the initial determination, the Contractor shall state, in writing, its rationale for disagreeing.







DFARS 252.245-7003

- (3) The Contracting Officer will evaluate the Contractor's response and notify the Contractor, in writing, of the Contracting Officer's **final determination** concerning—
 - (i) Remaining significant deficiencies;
 - (ii) The adequacy of any proposed or completed corrective action; and
 - (iii) System disapproval, if the Contracting Officer determines that one or more significant deficiencies remain.


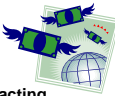
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DFARS 252.245-7003

- (e) If the Contractor receives the Contracting Officer's final determination of significant deficiencies, the Contractor shall, within 45 days of receipt of the final determination, either **correct the significant deficiencies** or **submit an acceptable corrective action plan** showing milestones and actions to eliminate the significant deficiencies.

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DFARS 252.245-7003

- (f) **Withholding payments.** If the Contracting Officer makes a final determination to **DISAPPROVE** the Contractor's property management system, leading to a potential risk of harm to the Government, and the contract includes the clause at [252.242-7005](#), Contractor Business Systems, the Contracting Officer will **withhold payments** in accordance with that clause.
- DFARS 252.242-7005 says,
 - "five percent of amounts due from progress payments and performance-based payments, and
 - ... withhold five percent from its billings on interim cost vouchers on cost, labor-hour, and time-and-materials contracts."
 - "...Ten percent for significant deficiencies in multiple contractor business systems."

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SORTA' A DOUBLE WHAMMY!

- If your PMS is **DISAPPROVED** two things may happen:
 - Withholding of Payment and
 - DFARS 252.245-7003
 - Withdrawal of Government's Assumption of Risk for "Loss" of GP
 - FAR 52.245-1 and
 - DFARS 252.245-7002





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A PROFESSORIAL REVIEW!!!

- Defined PMS
- Contractual Requirement for:
 - PMS
 - PROCESSES
 - Based upon:
 - GP CLAUSE (FAR 52.245-1)(b) and (f)
 - VCSeS
 - ILPS
- LIFE CYCLE APPROACH
- CONTRACTOR/PA/ACO Responsibilities
- NEW DFARS Rule regarding PMS
 - Potential Penalties




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THANK YOU!!!!

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