

The Contracting Academy

2019

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DISCLAIMER: The views expressed are not necessarily representative of DCMA. We are here to present on behalf of NCMA, Wisconsin Chapter. Although much of the information contained within is public knowledge, any opinions expressed are those of the presenter alone. If you have any questions, feel free to contact Jason Rath sack at visn12jr@gmail.com

Agenda

- A. Regulations**
- B. Contract Types**
- C. Quality Requirements – First Article Testing**
- D. Delivery Schedules**
- E. Special Requirements – Property, Patents, Classified Material**
- F. Cyber Security**
- G. Business Systems**

What is a contract?

- **Common Law Description**
- **Federal Acquisition Regulation**
(Title 48, Chapter 1 of the (CFR) – Code of Federal Regulations)
- **Elements in order to be legally enforceable**

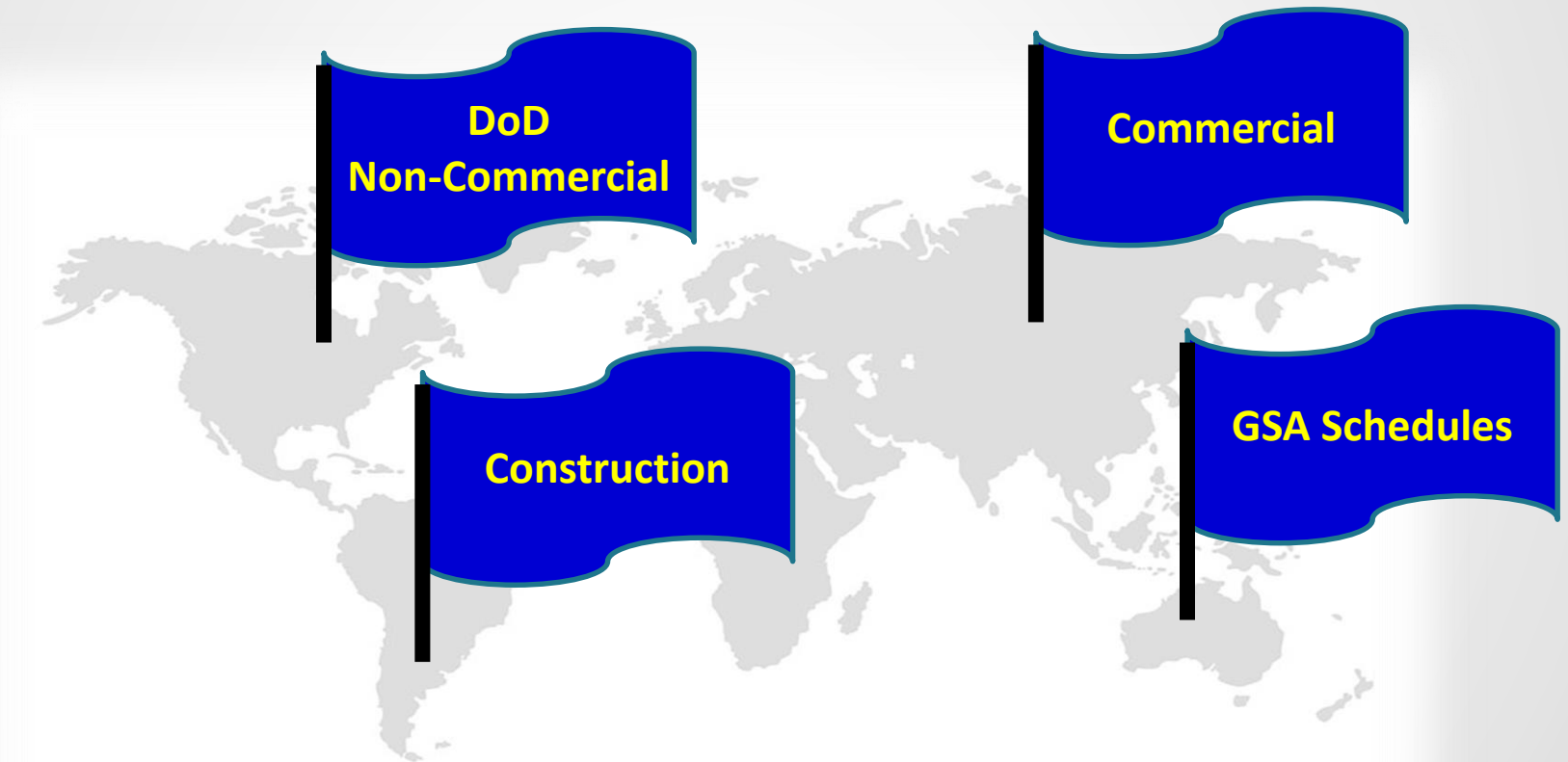
- Capacity
- Mutual Assent
- Consideration
- Lawful Purpose

**Contracting
Officer**



- Authority – Express v Implied v Apparent

The FAR-side of the Planet





- **Accessed 2.3 Billion Times**
- **July 2017 alone**
 - 12 Million hits
 - 3 Million unique pages
 - 53,000 visitors

**FAR 42.302 – what are the
(4) duties the PCO cannot
retain if the contract admin
is delegated?**

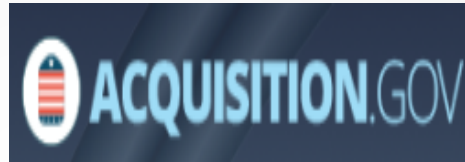
What Regulations?

➤ FARsite

<http://farsite.hill.af.mil/vmdfara.htm>

➤ **Acquisition.gov**

<https://www.acquisition.gov/>



WORDS matter

May v Shall

Should v Will

Provision v

Clause

Amendment v

Modification

**What is missing
in the FAR?**

***Sound
Business
Judgment***



What Regulations?

- **Federal Acquisition Regulations (FAR)**
 - 53 Parts, Part 52 – Solicitations and Clauses
 - Example – Economic Price Adjustment

FAR Part 16

Contract Types

16.203

Fixed Price w Economic Price Adjustment

52.216-2

Contract Clause for FFP

216.203 - 4

Adt'l Instructions for usage

216.203 - 4

Instructions for Contracting Officer

What Regulations?

- **Agency Supplements**
 - Approximately (30) supplemental
 - Provide more detailed or restrictive requirements

DLAD Prt 16

Established prices, indexes

DLAD 16.290

Presents an alt to 52.216-2 based on commodity

**Class
Deviations**

Temporary relief or change to regulation

**DCMA
Instructions**

Agency policies and procedures for managing your contracts

Notable chapters for performance..

- **DoD Supply/MFG**

- FAR 12: Commercial Items
- FAR 15: Contracting by Negotiations
- FAR 16: Contract Types
- FAR 42: Contract Administration and Audit Services
- FAR 46: Quality Assurance

- **DoD R&D/SBIR**

- FAR 15, 16, and 42
- FAR 27: Patents, Data, and Copyrights
- FAR 31: Contract Cost Principles and Procedures
- FAR 35: Research and Development Contracting

- **Always Notable**

- FAR 2: Definition of Words and Terms
- FAR 52: Solicitation Provisions and Contract Clauses

Regulatory Resources

- **DLA Internet Bid Board System (DIBBS)**

- <https://www.dibbs.bsm.dla.mil//>
- DLAD Supplement
- Master Solicitation
- DLA Technical and Quality Master List of Requirements
- DLA Packaging Requirements

- **Contracting Subway Map**

- Walks you along the path of a contract
- <https://www.dau.edu/tools/t/Subway-Map>

- **FAR/DFARS Matrix**

- <https://www.dau.edu/tools/t/FAR,-DFARS,-VAAR,-DEAR-Provision-and-Clause-Matrix>

- **WIFCON**

- Includes discussions, articles and links to references
- <http://www.wifcon.com/>

Unique Federal Contracting Clauses

1. Changes Clause (FAR 43.201, 52.243-1 through 6)

- Permits the contracting officer to make unilateral changes within the scope of the contract.
- Contractor must continue performance on the changed contract
- Contractor must segregate costs associated with change and negotiate a supplemental agreement ahead of time or equitable adjustment after

2. Termination For Convenience (FAR 49.1, 52.249-1 through 12)

- The contracting officer shall terminate contracts, whether for default or convenience, only when it is in the Government's interest.
- The contractor must stop work immediately, terminate applicable subcontract work, and prepare a termination settlement proposal.

3. Contracts Dispute Act (CDA) (FAR 33.2, 52.233-1, 52.233-4)

- The Federal Government, to a certain extent, enjoys Sovereign Immunity
- Disputes are processed using the processes explained in the CDA.
- Contractor may be required to continue performance while the claim is negotiated (FAR 33.213, 52.233-1 Alt 1)

4. Christian Doctrine (*G.L. Christian and associates v. United States* (375 U.S. 954, 84 S.Ct. 444, 11 L. Ed.2d 314 (1963)))

What are the primary contract types?

Firm-Fixed Price (FFP)

(FAR 16.202-1, 52.216-2)

- Nearly all supply and parts contracts
- Price is pre-negotiated and not subject to change based on contractor costs
- Maximum incentive for contractor to control costs and perform effectively
- Gov't surveillance focused on quality and delivery, minimal cost

Cost Plus Fixed Fee (CPFF)

(FAR 16.306, 52.216-7)

- DoD SBIR R&D Contracts, Repairs, Engineering Services
- Reimbursement is based on costs incurred plus fixed fee
- Uncertain requirement, high performance risk, low incentive to control costs
- Gov't surveillance focused on cost, business systems, technical, and delivery

Delivery Order

Task Order

Options
(FAR 17.2,
52.217-8)

Indefinite Delivery Indefinite Quantity (IDIQ)

(FAR 16.504, 52.216-22)

- Gov't is uncertain of when or how much of a product or service is needed however a minimum and maximum amount are included
- Pricing for goods or services may be pre-negotiated for quicker ordering
- Work is ordered via task or delivery orders, may include mix of FFP and CPFF

Contract Types



Contractor
Delivers
“Best Effort”

CPFF CPIF CPAF FPI(F) FPAF FFP

Contractor
Delivers
Acceptable
Product



Technical Risk

Vague technical requirements;
labor and materials costs uncertain

Technical requirements defined;
fair and reasonable prices determinable

CPFF: Cost Plus Fixed Fee
CPIF: Cost Plus Incentive Fee
CPAF: Cost Plus Award Fee

FPIF: Fixed Price Incentive Fee
FPAF: Fixed Price Award Fee
FFP: Firm Fixed Price

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Contract Types

	Cost Reimbursement	Fixed Price
Promise	Best Effort	Shall Deliver
Risk	Gov't (Post-award)	Contractor (Post-award)
Cash Flow	Incurred Costs Monthly Vouchers	Upon Delivery Financing Available
Administration & Surveillance	High Gov't Surveillance	Minimal during Performance
Profit or Fee	Pre-negotiated Fee	Based on Performance

Managing your Cost Type Contract

- **Regulations**

- FAR 42.7; Indirect Costs
- FAR 16.3; Cost-Reimbursement Contracts
- FAR 52.216-7; Allowable Cost and Payment
- FAR 52.216-8; Fixed Fee
- FAR 52.242-1; Notice of Intent to Disallow Costs
- FAR 52.242-4; Certification of Final Indirect Rates
- DCMA Manuals 2201-1 through 4; Indirect Cost Controls

Pre-Award: Are you ready for a cost type contract?

1. Do you have an adequate Accounting System?

(FAR 16.301-3, DFARS 242.7001, 252.242-7006, PGI 242.7502)

- Nearly all supply and parts contracts
- Price is pre-negotiated and not subject to change based on contractor costs
- Maximum incentive for contractor to control costs and perform effectively
- Gov't surveillance focused on quality and delivery, minimal cost

2. Property Management System? (FAR 45.107, 52.245-1)

- DoD SBIR R&D Contracts, Repairs, Engineering Services
- Reimbursement is based on costs incurred plus fixed fee
- Uncertain requirement, high performance risk, low incentive to control costs
- Gov't surveillance focused on cost, business systems, technical, and delivery

3. Can you segregate Incurred Costs by project?

(FAR 16.301, 52.216-7, 52.242-4)

- Gov't is uncertain of when or how much of a product or service is needed however a minimum and maximum amount are included
- Pricing for goods or services may be pre-negotiated for quicker ordering
- Work is ordered via task or delivery orders, may include mix of FFP and CPFF

Pre/Post-Award: Do you understand rates?

- **Billing Rates** (FAR 42.704)

- Prepared on an annual basis, based on budget, approved by ACO or DCAA
- Proposal should be submitted to ACO and DCAA prior to performance
- Not to be used for proposal
- Gov't surveillance focused on quality and delivery, minimal cost

- **Final Indirect Cost Rates** (FAR 52.216-7, 52.242-4)

- DoD SBIR R&D Contracts, Repairs, Engineering Services
- Reimbursement is based on costs incurred plus fixed fee
- Uncertain requirement, high performance risk, low incentive to control costs
- Gov't surveillance focused on cost, business systems, technical, and delivery

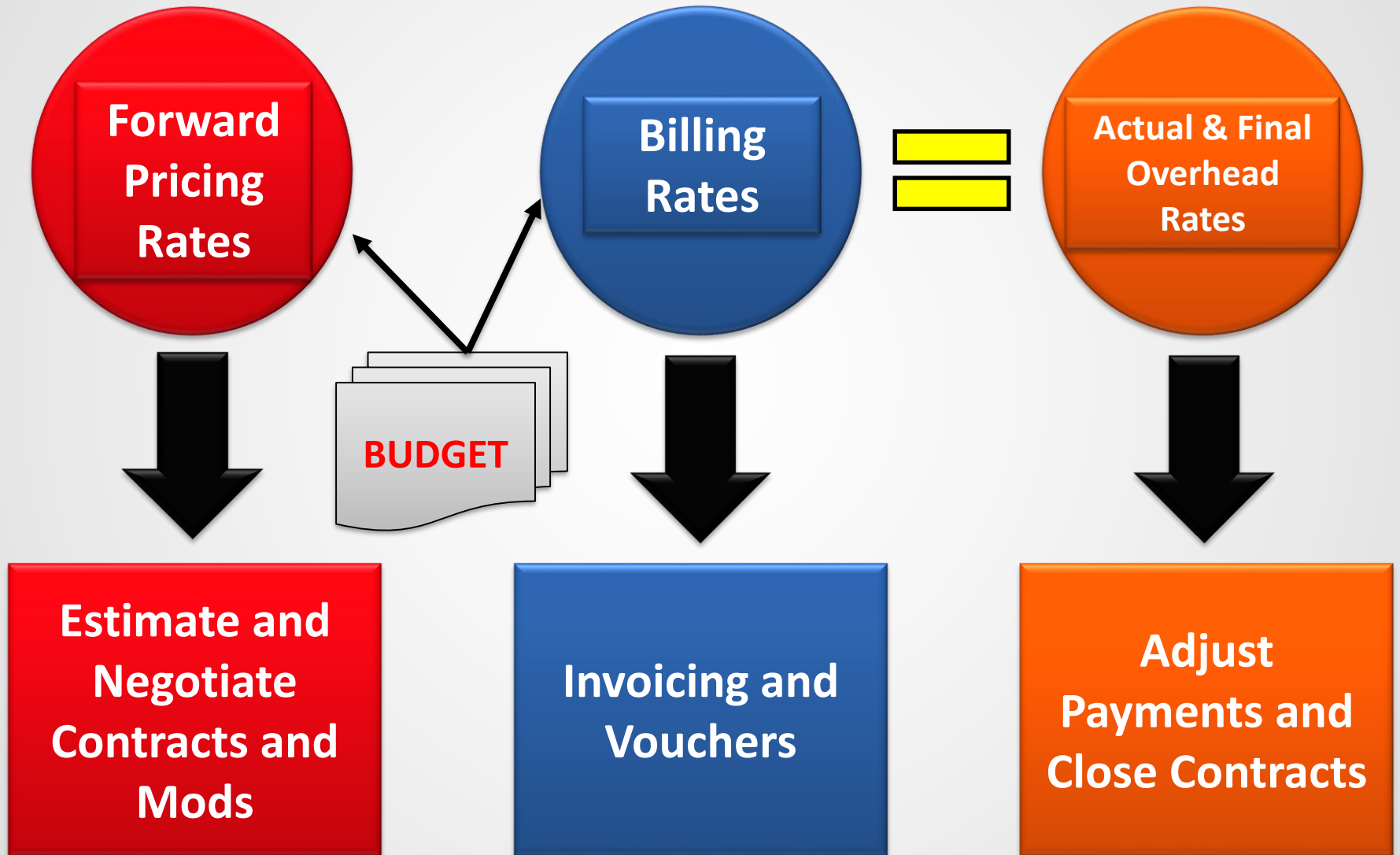
- **Allowable Costs** (FAR 16.504, 52.216-22)

- Gov't is uncertain of when or how much of a product or service is needed however a minimum and maximum amount are included
- Pricing for goods or services may be pre-negotiated for quicker ordering
- Work is ordered via task or delivery orders, may include mix of FFP and CPFF

Do NOT overestimate or underestimate your rates!



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Contract Structure

Table 15-1. Uniform Contract Format [FAR 15.204-1(b)]

Part I – The Schedule

Section A	Solicitation/contract form
Section B	Supplies or services and prices/costs
Section C	Description/specifications/statement of work
Section D	Packaging and marking
Section E	Inspection and acceptance
Section F	Deliveries or performance
Section G	Contract administration data
Section H	Special contract requirements

Part II – Contract Clauses

Section I	Contract clauses
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Part III – List of Documents, Exhibits, and Other Attachments

Section J	List of attachments
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Part IV – Representations and Instructions

Section K	Representations, certifications, and other statements of offerors or respondents
Section L	Instructions, conditions, and notices to offerors
Section M	Evaluation factors for award

Quality Assurance

FAR 46

Quality Assurance Regulations – FAR 46!

- FAR 42.302– Ensure supplier complies with contractual QA requirements
- FAR 46.402 – Requires Government QA performance at the source if QA activities elsewhere are uneconomical, unreasonable, or destructive
- FAR 46.202-4 – Requires compliance with higher-level quality standards in contracts for complex or critical items
- FAR 46.5 Acceptance
- FAR 52.246-2 thru 9
- FAR 52.246-11 Higher Level Contract Quality Requirement
- DFARS 246.102 General (Auditing Requirement)
- DFARS 246.202-4 Higher Level Contract Quality Requirement
- DCMA Manual 2101-01; Acceptance

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Remember your
Flow-down Clauses



Critical Safety Item (CSI)
Safety of Flight (SOF)
DFARS 252.209-7010
DCMA MAN 8210, 2303
Special Surveillance, Directed Suppliers, Adtl Reporting

Higher Level Quality
(46.204, 52.246-11)
“Quality Mgmt System”

Standard Inspection
(46.202-3, 52.246-2 thru 9)
“Gov’t Inspection”

Commercial, < \$250K
(46.202-1,2, 52.246-1)
“Kind and Count”

RISK

FACTORS:

- (a) Technical Description
- (b) Complexity
- (c) Criticality

Surveillance

Quality Assurance Regulations

FAR 52.246-11; Higher-level quality requirements

- Control work operations, in-process controls, and inspections
- Bring attention to organization, planning, work instructions, documentation control, and advanced methodology
- Mitigate the risk of nonconforming items to include counterfeit materials.
 - **Counterfeit materials are NOT just electronic parts.**
- Prime contractors are responsible for ensuring quality requirements **are flowed-down to their subcontractors**
- Prime contractors are **responsible for the quality of products by their subcontractors.**

Quality Assurance Regulations

52.246-11 -- Higher-Level Contract Quality Requirement.

As prescribed in 46.311, insert the following clause:

Higher-Level Contract Quality Requirement (Dec 2014)

(a) The Contractor shall comply with the higher-level quality standard(s) listed below.

Title Number Date Tailoring

[Contracting Officer insert the title, number, date, and tailoring (if any) of the higher-level quality standards.]

TITLE NUMBER DATE TAILORING

- _____
- _____
- _____
- _____



**If section A is blank?
Contact your ACO or
the PCO to verify
which standard is
required.**

(b) The Contractor shall include applicable requirements of the higher-level quality standard(s) listed

in paragraph (a) of this clause and the requirement to flow down such standards, as applicable, to lower-tier subcontracts, in—

(1) Any subcontract for critical and complex items (see 46.203(b) and (c)); or

(2) When the technical requirements of a subcontract require—

(i) Control of such things as design, work operations, in-process control, testing, and inspection; or

(ii) Attention to such factors as organization, planning, work instruction, documentation control, and advanced metrology.

Gov't Quality Testing

When does the Gov't typically test?

1. Contractor's lack of experience
2. If experienced, testing may still be required if;
 - a) Changes in specification
 - b) Lag in time since last production
 - c) Issues in the field
3. Performance specification
4. Serves as a manufacturing standard

When not to test?

1. R&D Contracts
2. Commercial
3. Qualified Product List – pre-qualified
4. Full Technical Specification is included

Gov't Testing Requirements

1) First Article Tests (FAT)

- FAR 9.3, 46.201 & FAR 52.209-3
- Vast majority of testing requirements

2) Product Lot Testing (PLT)

- FAR 46.201, DLAD 46.291, E03, E04
- Performed in addition to FAT, high QTYs, varied material

3) Product Verification Testing (PVT)

- FAR 46.201, DLAD 46.292, E05
- Primarily a DLA requirement, high risk item, KTR, 1st time buy

4) Fit Testing

- FAR 46.201
- Testing is completed at military installation (aircraft)

DCMA Man 2101-01
"Acceptance"
DCMA Homepage
under Policy
www.dcma.mil

Gov't Testing Requirements – how do you know?

Contract Receipt and Review!



Contract CLIN – what to look for.

1. Are you getting paid correctly?
2. Shipping instructions, inspection/acceptance point
3. Due date
4. Is there a Contract Data Requirement List (CDRL)

Contract Clause – remember your supplements

1. Government or Contractor testing
2. QTY needed
3. # of days of approval or due date
4. PCO or ACO approval

Gov't Testing Requirements – best practices

COMMUNICATION is key

1. Contact your Quality Assurance Representative immediately – **Post-Award Orientation Conference**
2. Fill out a complete FAT Report (See example)



Know the requirements and costs ahead of time

1. Requests for Variance (RFV) for outdated specs
2. Post Award Request (PAR) for changes needed in contract
3. Factor in the costs of the sample items – **consider retesting**
4. **Build in sufficient time** – push back on PCO
5. Understand that materials purchased before testing approval **will not be reimbursed** if you fail the tests
6. Failure to pass testing may result in **Termination for Default**
7. Waivers are available

Packaging and Transportation

Regulations

- DFARS 211 and 252.211-7000 thru 7008

DLA Packaging Library (DIBBS)

- <https://www.dla.mil/LandandMaritime/Offers/Services/TechnicalSupport/Logistics/Packaging/PackSpecsStds.aspx>
- DLA Packaging Documents
- How to Decipher MIL-STD-2073 Codes

Recommendation: Use a Military Packaging Company initially

- Wisconsin:
 - ✓ Bentley World Packaging
 - ✓ Advanced Military Packaging
 - ✓ Transpak Corporation



➤ **Item Unique Identification (IUID)**

- DFARS 252.211-7003
- <https://www.acq.osd.mil/dpap/pdi/uid/>

On Time Delivery

FAR 11

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Delivery Schedule

ORDER FOR SUPPLIES OR SERVICES		Form Approved OMB No. 0704-0187 Expires Aug 31, 1992		PAGE 1 OF 36	
1. CONTRACT/PURCH ORDER NO. SPRMM1-19-0-YG49	2. DELIVERY ORDER NO.	3. DATE OF ORDER 2019 JUN 19	4. REQUESTION/PURCH REQUEST NO. 18086-0017 (FFP186*)	5. CERTIFIED FOR NATIONAL DEFENSE UNDER DPAS IS CRF 700 DO DO DO-A3	
7. ADMINISTERED BY (If other than 6)			CODE S1403A	8. DELIVERY FOR <input type="checkbox"/> DEST <input checked="" type="checkbox"/> OTHER (See Schedule if other)	
DCMA CHICAGO 1523 WEST CENTRAL ROAD ARLINGTON HEIGHTS, IL 60005-2451 SCD: B					
FACILITY CODE			10. OFFER TO FOB POINT (Date) SEE SCHEDULE DISCOUNT TERMS NET 30 DAYS	9. MARK IF BUSINESS IS <input checked="" type="checkbox"/> SMALL <input type="checkbox"/> SMALL DISADVANTAGED <input type="checkbox"/> WOMEN-OWNED	
13. MAIL INVOICES TO SEE BLOCK 15					
14. SHIP TO SEE SCHEDULE		15. PAYMENT WILL BE MADE BY DFAS - COLUMBUS CENTER WEST ENTITLEMENT OPERATIONS P O BOX 182317 COLUMBUS, OH 43218-2317		CODE H00339	MARK ALL PACKAGES AND PAPERS WITH CONTRACT OR ORDER NUMBER
EFT:T					
16. DELIVERY: This delivery order is issued on another Government agency or in accordance with and subject to terms and conditions of above numbered contract.					
PURCHASE: X Reference your QUOTE NO. 110002082 AND RFO SPRMM1-19-0-YG49 furnish the following on terms specified herein.					
ACCEPTANCE: THE CONTRACTOR HEREBY ACCEPTS THE OFFER REPRESENTED BY THE NUMBERED PURCHASE ORDER AS IT MAY PREVIOUSLY HAVE BEEN OR IS NOW MODIFIED, SUBJECT TO ALL OF THE TERMS AND CONDITIONS SET FORTH, AND AGREES TO PERFORM THE SAME.					
17. ACCOUNTING AND APPROPRIATION DATA/LOCAL USE SEE SECTION G					
18. ITEM NO.	19. SCHEDULE OF SUPPLIES/SERVICES	20. QUANTITY ORDERED/ACCEPTED	21. UNIT	22. UNIT PRICE	23. AMOUNT
	SEE SCHEDULE				

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Service, Paperwork Project (0704-0187), Washington, DC 20503.

ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	NSN 7HH 5998-01-230-7809 CIRCUIT CARD ASSEMB SHLF LIFE 0-00 MADE TO: 27315 IAW: 79U5D2 SEE TECHNICAL REQUIREMENTS IN SECTIONS C, D, E, AND ATTACHMENTS HM QUP ICQ PMT CD PM WM CUD CT UC LP IC UCL SP MK PACK UNIT PKWT UNIT PKCU OPI N 001 000 GX 1 00 00 LT B ED A 00 B 39 EFF 4.0 0.209 M				
	PACKAGING IS IN ACCORDANCE WITH MIL-STD-2073				
	INSPECT AT SOURCE ACCEPT AT SOURCE				
0001AA	DEL BY: 2019 OCT 17 ACRN: AA TP: 3 SHIP TO PR N00104-18-X-5192 DO-A3 W25G1U M/F: REC. OFF. NON-MILSTRIP				
0001AB	DEL BY: 2019 OCT 17 ACRN: AA TP: 3 W62G2T PR N00104-18-X-5192 DO-A3 M/F: REC. OFF. NON-MILSTRIP				
	AWARD NOTES: AWARD NOTES: THIS AWARD IS BEING ISSUED UNDER SPECIAL EMERGENCY PROCUREMENT AUTHORITY (SEPA), PER FAR 5.202(a)(2). **IUID AND RFID ARE WAIVED FOR THIS ORDER.** THE CONTRACTOR'S EMAIL ADDRESS IS: janine.neumann@konecranes.com (Janine Neumann)				
	if the shipment is made without GSI as called for on this purchase order, it will be the contractor's responsibility to track the shipment and send it back to the company for proper inspection and acceptance at their own cost.				

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Delivery Schedule

ORDER FOR SUPPLIES OR SERVICES				PAGE 1 OF 12
1. CONTRACT/PURCH ORDER/AGREEMENT NO.	2. DELIVERY ORDER/CALL NO.	3. DATE OF ORDER/CALL (YYYYMMDD) 2019 SEP 23	4. REQUISITION/PURCH REQUEST NO. 0081176925	5. PRIORITY DO-C9
REGISTERED BY (If other than 6) CHICAGO WEST CENTRAL ROAD MINGTON HEIGHTS IL 60005-2451 City: C Pre-Award Survey : None			CODE S1403A	8. DELIVERY FOB <input type="checkbox"/> DESTINATION <input checked="" type="checkbox"/> OTHER (See Schedule if other)
DELIVER TO FOB POINT BY (Date) (YYYYMMDD) 210 DAYS ADO			9. QUANT TERMS days	11. X IF BUSINESS IS <input checked="" type="checkbox"/> SMALL <input type="checkbox"/> SMALL DISADVANTAGED <input type="checkbox"/> WOMEN-OWNED
SUBMIT ALL INVOICES TO THE ADDRESS IN BLOCK Submit Invoices IAW DFARS 252.232-7003				
14. SHIP TO SEE SCHEDULE, DO NOT SHIP TO ADDRESSES ON THIS PAGE		CODE	15. PAYMENT WILL BE MADE BY DEF FIN AND ACCOUNTING SVC BSM P O BOX 182317 COLUMBUS OH 43218-2317 USA	CODE SL4701 MARK ALL PACKAGES AND PAPERS WITH IDENTIFICATION NUMBERS IN BLOCKS 1 AND 2.
16. TYPE OF ORDER	DELIVERY/ CALL	This delivery order/call is issued on another Government agency or in accordance with and subject to terms and conditions of above numbered contract.		
	PURCHASE	<input checked="" type="checkbox"/>	Reference your Offer/Quote dated 2019 AUG 26, 329-905 furnish the following on terms specified herein.	
ACCEPTANCE. THE CONTRACTOR HEREBY ACCEPTS THE OFFER REPRESENTED BY THE NUMBERED PURCHASE ORDER AS IT MAY PREVIOUSLY HAVE BEEN OR IS NOW MODIFIED, SUBJECT TO ALL OF THE TERMS AND CONDITIONS SET FORTH, AND AGREES TO PERFORM THE SAME.				
NAME OF CONTRACTOR		SIGNATURE	TYPED NAME AND TITLE	DATE SIGNED (YYYYMMDD)
If this box is marked, supplier must sign Acceptance and return the following number of copies:				

September 23, 2019= 267

267 +210= 477

477-366 (366 because FY20 is a leap year)

=111th day of 2020

= April 20, 2020

What Governs Schedule?

- FAR 52.211-8 -- Time of Delivery
- FAR 52.211-9 -- Desired and Required Time of Delivery
- FAR 52.211-10 -- Commencement, Prosecution, and Completion of Work
- FAR 52.211-15– Defense Priority and Allocation Requirements

Defense Priorities and Allocations System

Defense Production Act of 1950

- President's primary authority to mobilize resources and expedite critical industrial items for national defense
- Does not require an emergency declaration
- Require priority in acceptance
- Require priority in scheduling

DPAS

- A regulation administered by the Department of Commerce (DoC) that implements the priorities and allocations authority contained in Title 1 of the Defense Production Act (DPA) of 1950 with respect to industrial resources.

Purpose

- Assure timely availability of industrial resources to meet current national defense and emergency preparedness program requirements

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Rated Contract

ORDER FOR SUPPLIES OR SERVICES				Form Approved OMB No. 0704-0187 Expires Aug 31, 1992		PAGE 1 OF 31	
1. CONTRACT/PURCH ORDER NO.		2. DELIVERY ORDER NO.		3. DATE OF ORDER 18 MAR 15		4. REQUISITION/PURCH REQUEST NO. 17153-0061	
[REDACTED]		7. ADMINISTERED BY (If other than 6) CODE S1403A				5. CERTIFIED FOR NATIONAL UNDER DFAS 15 CRF 700 DO DO-A3	
		DCMA CHICAGO 1523 WEST CENTRAL ROAD ARLINGTON HEIGHTS, IL 60005-2451 SCD: B				8. DELIVERY FOB <input type="checkbox"/> FOB <input checked="" type="checkbox"/> OTHER <i>(See Schedule if other)</i>	
[REDACTED]		FACILITY CODE		10. DELIVER TO FOB POINT BY (Date)		1. MARK IF BUSINESS IS	
		3052		SEE SCHEDULE		<input type="checkbox"/> SMALL	
				12. DISCOUNT TERMS NET 30 DAYS		<input type="checkbox"/> SMALL DISADVANTAGED	
POC: (262) 508-3011				13. MAIL INVOICES TO		<input type="checkbox"/> WOMEN-OWNED	
SEE SCHEDULE		15. PAYMENT WILL BE MADE BY CODE H00339		SEE BLOCK 15		MARK ALL PACKAGES AND PAPERS WITH CONTRACT OR ORDER NUMBER	
		DFAS - COLUMBUS CENTER WEST ENTITLEMENT OPERATIONS P O BOX 182317 COLUMBUS, OH 43218-2317					
EET:T							

Key Elements for Rated Order

Four Key Elements

1. Priority Rating (DO-A3)
2. A **required** delivery date
3. Manual or Electronic Signature
4. A statement that reads in substance: This is a rated order certified for national defense use, and you are required to follow all provisions of the Defense Priorities and Allocations System regulation (15 CFR 700). (FAR 52.211-15)

DPAS Priority Ratings

DPAS rules are standard part of U.S. defense contracting process: (15 CFR 700.11 (a))

- Two levels of priority ratings:
 - **(DX) Highest national defense urgency:** All DX rated orders have equal priority and take preference over DO and unrated orders (based on ship schedule)
 - **(DO) Critical to national defense:** All DO rated orders have equal priority and take preference over unrated orders (based on ship schedule)

Mandatory Acceptance or Rejection of Rated Orders

- Section 700.13
 - **Mandatory acceptance**
 - A person shall accept every rated order received and must fill such orders regardless of any other rated or unrated orders that have been accepted.
 - A person shall not discriminate against rated orders
 - **Mandatory Rejection**
 - A person shall not accept a rated order for delivery on a specific date if unable to fill the order by that date. However, the person must inform the customer of the earliest date on which delivery can be made
 - Unless otherwise directed by Commerce, rated orders may be rejected in accordance with 700.13 (c)(1-5)

Customer Notification

- A person **must accept or reject a rated order** and transmit the acceptance or rejection in writing (hard copy), or in electronic format, **within fifteen (15) working days** after receipt of a **DO** rated order and **within ten (10) working days** after receipt of a **DX** rated order. If the order is rejected, the person must also provide the reasons for the rejection, pursuant to paragraphs (b) and (c) of this section, in writing (hard copy) or electronic format.
- If a rated order is **placed for the purpose of emergency preparedness requirements** and expedited action is necessary or appropriate to meet these requirements and the order includes the statement set forth in §700.12(b), **a person must accept or reject the rated order** and transmit the acceptance or rejection in writing or in an electronic format **within the time specified in the rated order.**

Customer Notification

- The **minimum times** for acceptance or rejection that such orders may specify are six (6) hours after receipt of the order if the order is issued by an authorized person in response to a hazard that has occurred, or twelve (12) hours after receipt if the order is issued by an authorized person to prepare for an imminent hazard.
- If a person has accepted a rated order and subsequently finds that shipment or performance will be delayed, ***the person must notify the customer immediately, give the reasons for the delay, and advise of a new shipment or performance date.*** If notification is given verbally, written (hard copy) or electronic confirmation must be provided within one working day of the verbal notice.

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Know Your Team



- Procurement Contracting Officer (PCO)
- Administrative Contracting Officer (ACO)
- DCMA Contract Administrator (CA)
- DCMA Industrial Specialist (IS)
- DCMA Quality Assurance Representative (QAR)

**Contract Management Team
(CMT)**

Contractor Effectiveness

- **Discrepancy Report**

- Ensure contractors are effectively controlling nonconforming material (NCM)
 - Product quality deficiency report (PQDR)
 - Supply discrepancy report (SDR)

- **Contractual Deficiencies**

- Ensure contractors are addressing the deficiency
 - Corrective Action Report
 - A CAR must be issued against a **valid contractual requirement** and the cited deficiency description must concisely show a clear departure from the contractual requirement.
 - Level I, II, III and IV

CAR Levels

- **Level I:** Describes a deficiency on an outcome or product of a process(es) that is not symptomatic of a breakdown of a process, or system.
- **Level II:** Describes deficiencies in a contractor process(es) (e.g., purchasing, configuration management, EVM processes) that are: not a significant breakdown of a higher level system; Critical Safety Items (CSI) deficiencies; an escalation of Level I CARs increasing performance risk; systemic issues
- **Level III:** Describes multiple major deficiencies in a system affecting contract or program ability to meet cost, schedule or performance requirements; a significant deficiency in a Contractor Business Systems or a failure to respond to a lower level CAR or to remedy recurring noncompliance
 - **May result in contractual remedies:** Reduction of payments, Cost disallowances, Revocation of government assumption of risk of loss, Business management system disapprovals
- **Level IV:** Is issued to the contractor's segment or corporate management when the contractual deficiency is of a serious nature or when a Level III CAR has been ineffective.
 - **Will result** in a mandatory review of contractual remedies: Level III contractual remedy list, Suspension of payments, Suspension of all product acceptance

*** Lower level CARs need not be issued prior to higher level CAR issuance**

Summary

Additional DPAS Training

- **Contact the Industrial Specialist assigned to your CAGE code in CMT**
 - Will ensure the person from the production line all the way to the top of chain of command is aware of the regulation guidelines to rated order contracts.



RECAP

- Delivery Schedule
- What governs delivery schedule?
- DPAS
- Four Elements to a Rated Order
- Mandatory Acceptance and Rejection
- Required Customer Notification
- Contract Management Team

References

- Defense Priorities and Allocations System (DPAS) regulation (15 CFR part 700)
- Federal Acquisition Regulations

Special Requirements

Classified Information (FAR 4)

Patents & Royalties (FAR 27)

Business Systems

Safeguarding Classified Information

FAR 4.4, 52.204-2

- **Perform Contract Receipt and Review:** If your contract contains the above clause, notify your Contract Administrator
- FAR 52.204-2 Security Requirements: for contracts involving info classified “Confidential,” “Secret,” or “Top Secret.”
- A Draft DoD Form (DD) 254, DoD Contract Security Classification Specification should be included in the solicitation.
- A final DD Form 254 is ONLY required if the contractor **requests retention of classified materials** beyond the automatic two year retention period
- **DLA Policy Change:** mandates DoD contractors to Dispose of ALL Classified Material provided by DLA at Closeout or Termination of the Contract.

Patents and Royalties

- **FAR 52.227-11** – Patent Rights – Ownership by the Contractor
- **FAR 52.227-13** – Patent Rights – Ownership by the Government
- **DFARS 252.227-7038**, Patent Rights – Ownership by the Contractor (Large Business)
- **DFARS 252.227-7039**, Patents – Report of Subject Inventions
- **FAR 52.227-9**, Refund of Royalties

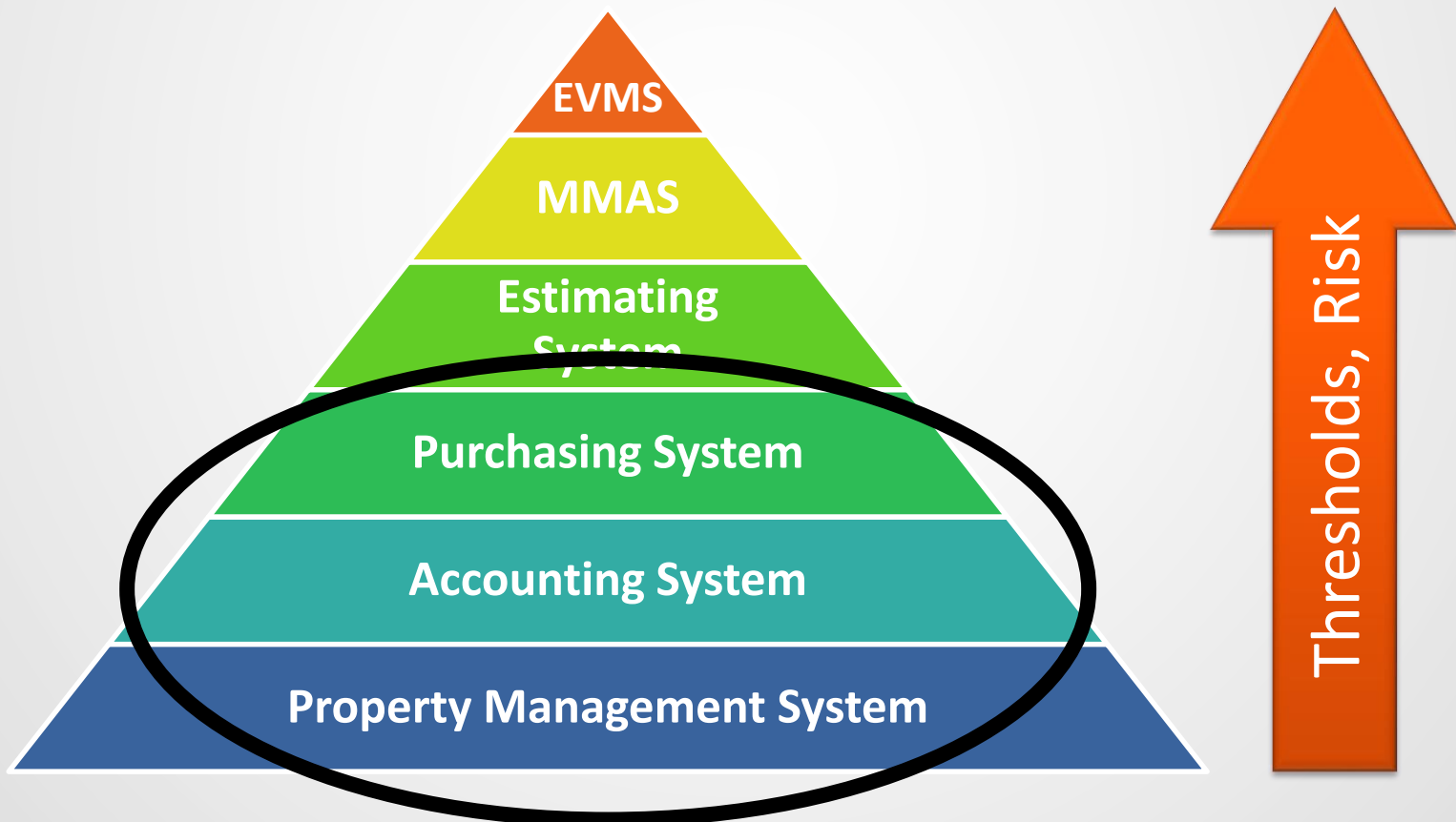
Patent – A grant made by a government that confers upon the creator of an invention the sole right to make, use, and sell that invention for a set period of time.

Royalty – A share in the proceeds paid to an inventor or a proprietor for the rights to use his or her invention or services.

- **If your contract contains the above clause, notify your Contract Administrator**
- “Interim” reports are due to the ACO every (12) months, and the “Final” report is due within (6) months for small business/nonprofit organizations and w/i (3) months for large business after completion of the contract

Contractor Business System Updates

DFARS 252.242-7005

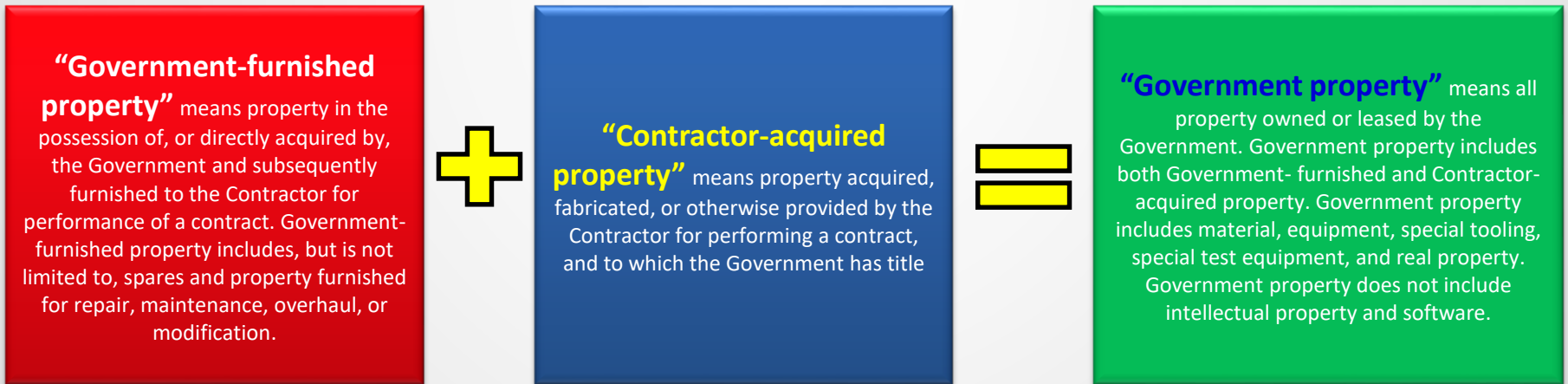


Contractor Property Management System

System Criteria: 52.245-1 -- Government Property

“**Property Management System**” means the Contractor’s system or systems for managing and controlling **Government property**.

Requirement: Contracts involving Government Property and/or are flexibly priced.



Property Management Systems are required for performing Cost Contracts including SBIR/R&D



Property Management System

Steps to Take:

- 1) If your contract involves Government Property, verify that FAR 52.245-1 is in the contract
- 2) Notify your Contract Administrator who will then order a Property System audit
- 3) Review the system criteria @ FAR 52.245-1(f) for the different system criteria.

Examples:

- a) Acquisition of Property.* The Contractor shall document that all property was acquired consistent with its engineering, production planning, and property control operations.
- b) Receipt of Government Property.* The Contractor shall receive Government property and document the receipt, record the information necessary to meet the record requirements of paragraph (f)(1)(iii)(A)(1) through (5) of this clause, identify as Government owned in a manner appropriate to the type of property (e.g., stamp, tag, mark, or other identification), and manage any discrepancies incident to shipment.

Resources:

- National Property Management Association: <https://www.npma.org/>

Accounting System

“**Accounting System**” means the Contractor’s system or systems for accounting methods, procedures, and controls established to gather, record, classify, analyze, summarize, interpret, and present accurate and timely financial data for reporting in compliance with applicable laws, regulations, and management decisions...

Requirement: Flexibly priced contracts or financing

System Criteria: DFARS 252.242-7006, *Accounting System Administration*

- DCAA will perform pre-award Accounting System review and then later a post-award Accounting System audit

**Required for performing on a
Cost Type Contract**



Safeguarding Controlled Unclassified Information

DCMA was engaged by DoD to Implement the intent of OUSD (A&S) Memorandum, ***Addressing Cybersecurity Oversight as Part of a Contractor's Purchasing System Review***

- Issued by Ms. Lord on January, 21 2019

This Memo basically asks the CPSR Group to assure that Prime Contractors are able to safeguard DoD Controlled Information (CDI) when subcontracting

Safeguarding Controlled Unclassified Information

DFARS Clause 252.204-7012

The Memo asked that DCMA, when providing contract administration and oversight, review contractor procedures to:

- 1) ensure that requirements for marking and distribution of **DoD Controlled Unclassified Information (CUI) flow down appropriately to Tier 1** level suppliers, (DoD CUI = CDI)
- 2) validate that **prime contractor procedures assure that Tier 1 level suppliers are compliant with DFARS Clause 252.204-7012**, Safeguarding Covered Defense Information and Cyber Incident Reporting when a transfer of CDI is anticipated

Safeguarding Controlled Unclassified Information

DFARS Clause 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting requires contractors and subcontractors handling CDI to comply with the National Institute of Standards and Technology (NIST) Special Publication, NIST SP 800-171, Rev 1, Protecting Controlled Unclassified Information in Nonfederal Systems and Organizations.

- 14 Families of Requirements
- 110 Controls

Supply Chain Management: Proper management of a supply chain requires prime contractors to manage the flow of CDI to subcontractors.

- DFARS 252.204-7012, is a mandatory flow down.

Reviewing such flow downs has always been a part of a **contractor purchasing system review**. This flow down requirement is being emphasized as part of the Supply Chain Management (SCM) review process.

Safeguarding Controlled Unclassified Information

CPSR Review

- CPSR field reviews began in March of 2019 and will follow the instruction of the revised **SCM Job Aid** when evaluating contractor purchasing systems.
- Should a Safeguarding of CDI deficiency be identified, it will be captured in the CPSR report and forwarded to the ACO.
- No matter the decision on significance, **a CAR will be issued** and tracked to completion, thus resolving the deficiency.

Download the CPSR Guidebook:

https://www.dcmamil/Portals/31/Documents/CPSR/CPSR_Guidebook_022619.pdf



Safeguarding Controlled Unclassified Information

Contractor Responsibilities

- 1) Prime contractor **policies and procedures** must provide adequate instruction to procurement personnel on both DFARS 252.204-7012, and NIST SP 800-171, Rev 1.
- 2) Prime contractors should **understand which prime contracts contain DFARS Clause 252.204-7012**, and specifically **require the protection of CDI identified in prime contract special instructions, statements of work, or identified as actual markings.**
- 3) Prime contractors should only include DFARS 252.204-7012, as part of the subcontract terms and conditions, **when they are sure that the 14 Families Requirements and 110 Controls outlined in NIST SP 800-171, Rev 1** have been adequately addressed by their subcontractors.

Safeguarding Controlled Unclassified Information

Contractor Responsibilities (Cont'd)

- 4) Prime contractors must document and be able to explain the steps taken to assure that any identified recipients or developers of CDI have a **Covered Contractor Information System (CCIS) and associated System Security Plan (SSP)**.
- 5) The prime contractors should be capable of **providing a listing of all subcontractors** that receive or create CDI as part of subcontract performance.
- 6) **Subcontractors should be informed** by prime contractors that when accepting DFARS 252.204-7012, they are asserting compliance with the 14 Families of Requirements and 110 Controls outlined in NIST SP 800-171 Rev 1.

Safeguarding Controlled Unclassified Information

Marking requirement

- 1) **DFARS 252.204-7012** requires contractors and subcontractors to safeguard or to have dissemination controls for CDI that resides on or is transiting through a contractor's internal information system or network.
- 2) CDI **should be properly marked** in subcontracts containing DFARS 252.204-7012 and should not be present in subcontract/PO files where DFARS 252.204-7012 is not included. CDI should maintain its markings in all Subcontract/PO files.

Safeguarding Controlled Unclassified Information

Notification/Reporting Requirements

DFARS 252.204-7012 (m)(2)(i)

Prime contractors must have a system in place to track notifications from subcontractors that they have requested, from the Contracting Officer, a variance from NIST SP 800-171, Rev 1,

DFARS 252.204-7012 (m)(2)(ii)

Prime contractors must have a system in place to track incident report numbers received from subcontractor as a result of cyber incidents being reported to the DOD at <http://dibnet.dod.mil>.

Questions?

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