

CHAPTER 11

REAL PROPERTY, PERSONAL PROPERTY AND TRANSPORTATION MANAGEMENT

WHAT ARE THE BASIC PRINCIPLES AND OBJECTIVES OF PROPERTY AND TRANSPORTATION MANAGEMENT?

1. To understand and properly classify the types and amounts of personal property that a contractor possesses.
2. To verify the requirement for personal property and ensure it is used in the manner authorized.
4. To ensure the proper care of, and accounting for, personal property.
5. To ensure the proper disposition of personal property at contract closeout.
6. To ensure the effective acquisition, use, maintenance and disposal of real property by the proper application of real property authorities.
7. To ensure the Certified Realty Specialist is used to review and approve all contractor real estate actions.
8. To ensure that the DOE Transportation Manager is utilized and appropriate packaging and transportation regulations and

WHY IS REAL PROPERTY, PERSONAL PROPERTY AND TRANSPORTATION MANAGEMENT IMPORTANT?

The Government has a significant investment in both real and personal property. The proper management of both real and personal property help to conserve costly Government resources. Proper transportation management helps to ensure that supplies and services are transported cost effectively and in a manner which protects property, individuals and the environment. This chapter details the roles and responsibilities of the members of the contract administration team in the transportation, personal property and real property management areas. It also provides the mechanisms its PBMC contractors should use to perform those responsibilities.

Property management is broadly defined as those functions of the government and its contractors that deal with the acquisition, control, protection, and disposition of Government property. People who manage property need to be familiar with the property for which they are responsible (both real and personal) and must be able to forecast future needs of the activities that they support. The real and personal property of the Federal government represents an asset that must be maintained, protected, controlled, used, and disposed of in a most effective and efficient manner. The effective management of real property also involves acquisitions, leases,

permits, utilization, and disposals with and without the underlying land.

Specifically, **personal property** management is defined as the:

- Management, coordination, and regulation of activities concerned with the planning of property needs;
- Acquisition of property;
- Receipt, storage, and distribution of property;
- Proper care and utilization of property;
- Property accounting control; and
- Disposition of property.

The basic principles of transportation and personal property management under which PBMC's operate are governed by requirements identified in the Federal Property Management Regulations (FPMR), DOE Property Management Regulations (DOEPMR), Federal Acquisition Regulation (FAR), and Department of Energy Acquisition Regulation (DEAR). Field sites develop and implement site-specific instructions that embellish, enhance, or further restrict the broader requirements of the FPMR and DOE PMR.

The basic principles of **real property** management are found in the statutory language of the various authorities applicable to the Department (e.g., Atomic Energy Act and DOE Organization Act), as well as the FPMR, DOE Order 430.1A, and the Real Property Desk Guide. Field

elements may also develop and implement site-specific instructions relative to their real property management function.

What are the legal concepts behind Government property?

Personal Property: The subject of Government-owned personal property held by contractors is essentially one of bailment. The property consists of tangible, personal property required in research and production processes. The owner (bailor) of the property is the Government. The recipients (bailee) of the property are Government contractors. Bailment refers to performance on Government contracts.

The rights, powers, privileges, and immunities of the two parties to the bailment may be expressed as terms in the contract or they may be implied. Expressed terms are contained in the various contract property clauses included in the contract. Implied rights and duties may arise from statements of intent or courses of conduct before, during, or after contract performance. If the rights of the parties are not clearly specified and understood; and if the intention of the parties is not articulated in some other manner, disputes that arise between the parties are settled under the law by relying on general principles and precedents incorporated in the law and the applicable regulations.

Real Property: The term "bailment" does not apply to real property. The underlying land and facilities comprising the Department's real property are made available to the contractor, allowing its use by the contractor to perform the contract. There is no "lease" of land from the

Government to the contractor, nor is any rent paid. Since “fee title” to the land and facilities is vested in the United States Government, contractors cannot dispose of or otherwise cloud title to the real property. That is an inherently governmental function and is within the sole purview of government officials.. There are a few instances where government-owned facilities or “improvements” are located on private land, and even a few where government-owned facilities and private facilities are contiguous on private land. The ultimate disposition of those improvements, if such were to occur, are usually found in the terms of the site-specific contract.

Why does the Government provide personal property to contractors?

Government-owned property is considered an aid to procurement. There are many reasons why property owned by the Government may be required or provided to contractors. Several of the factors to be considered are briefly explained below:

- C Economy - the cost of the contract may be reduced if the contractor doesn't need to buy the equipment and, thereby, a more favorable price may be obtained.
- C Security - sometimes performance requires the use of classified equipment only available from the Government.
- C Increase competition - in cases where a limited number of sources are interested in competing for

Government work because of expensive equipment investment required, the availability of Government equipment may increase the number of potential bidders.

- C Expedite Research/Production - some equipment requires a long lead-time to produce or acquire.
- C Maintain the industrial base - some equipment is used so rarely or is so costly to maintain that except for retention by the Government, it would otherwise be lost from the domestic inventory.

Inasmuch as all existing PBMC contractors are already in possession of Government personal property, the above reasons for providing Government property would usually apply only in limited situations. Such situations might include providing Government personal property through the prime contract to subcontractors when the need arises.

What are the costs of government-owned personal property?

Good management comes from an awareness of the benefits versus the costs of management actions. Government-owned personal property can be an aid to procurement and, therefore, some benefits can accrue to the parties to the bailment. However, there are costs which should be considered such as the:

- Cost of the personal property;
- Cost of administration;

- Reduction of competition inherent in one source with significant furnished personal property;
- Reduction in contractor liability associated with the performance of the equipment; and
- Cost of disposal of personal property.

What are the types of property?

While there are different definitions of Government property by agency, generally the classifications include:

- **Real property:** land, buildings, other structures and facilities, improvements, and affixed equipment; and
- **Personal property:** movable equipment, machine tools, test equipment, furniture, vehicles, etc.

What is the policy on providing personal property to contractors?

The initial premise regarding the provision of Government personal property is that contractors are expected to furnish all assets required to perform under their contracts. If the contractor is unable to furnish necessary equipment, the Government may offer to furnish existing assets. Federal Property Management Regulations Subpart 101-43.301 states that the first source of supply for Government property is excess personal property. If such assets are not available, the Government can authorize the purchase or fabrication of the personal property by the

contractor. In cases where Government furnished personal property is made available to a contractor, efforts should be made to obtain financial or other consideration for the use of the personal property.

It is recommended that the approval status of the contractor's personal property system be examined when providing Government property. Government personal property personnel interact with the contractor differently if the contractor has an already approved personal property system as opposed to a system which is either not Government approved or has deficiencies.

What are the contractual devices for providing personal property to contractors?

Contracting Officers (COs), when preparing a contract in which Government-furnished property will be made available, must ensure that the appropriate contract clauses are used. Contract administrators must be able to recognize the unique requirements of the types of contracts involved and those included clauses that require decisions and surveillance with respect to property matters. Various forms of contracts are used in Government procurement, and property is treated differently under each instrument.

- **Fixed Price - Personal property** may be furnished to or the contractor may be directed to purchase personal property, title to which will vest in the Government upon commencement of first use or payment by the Government, whichever comes first. Responsibility for missing, lost, or damaged personal property is not tied to negligence.

C Cost Reimbursement - There are two significant differences in the personal property provisions associated with this form of contract versus those in fixed priced contracts. In a fixed price contract the government may furnish the personal property or direct that it be purchased by the contractor. In a cost reimbursement contract, essentially everything paid for by the Department becomes Government-owned personal property. The other significant provision is the risk of loss feature. Contractor liability is based on:

- Willful misconduct or lack of good faith.
- Failure of the contractor's managerial personnel to take all reasonable steps to comply with any appropriate written direction of the contracting officer to safeguard such property; or
- Failure of the contractor's managerial personnel to establish, administer, or properly maintain an approved property management system.

C Leases of Real Property - Contracts typically allow contractors to acquire leased office space, laboratory, or other space appropriate to perform under the contract. These are allowed as covered or allowable costs. Contract administrators should coordinate with the Certified Realty Specialist to ensure that a valid requirement exists for the space and that the lease is

approved by the Certified Realty Specialist prior to execution.

What is Real Property Management?

Real property transactions require significant coordination. Consultation with the Certified Realty Specialist or, in the absence thereof, with Headquarters Real Estate staff in the Office of Contract and Resource Management (MA-53) will ensure the exercise of discretion in applying government authority or making value judgments in the acquisition, use, and disposal of real property - an inherently Governmental function.

What are the functions of the Contracting Officer regarding Government personal and real property?

It is not possible to list all of the property responsibilities of the CO in this brief outline. However, some major decisions that should draw the attention of the CO are:

- Selecting and drafting the contract terms and conditions including appropriate personal and/or real property clauses when property is to be provided;
- Ensuring that the Federal Property Management Regulations and the DOE Property Management Regulations are applied to contracts appropriately;
- Approving the provision of Government property;
- Coordinate with the Certified Realty Specialist on all actions associated with

real property including but limited to approving leases;

- Approving and tracking progress payments (property acquisition);
- Approving transfers of personal property;
- Reviewing, approving and disapproving (as appropriate) a contractor's personal property management system; and
- Assessing liability for missing, lost or damaged personal property.

The CO will normally delegate, through appropriate mechanisms, the responsibility for personal property management for contract(s) to a CO representative (COR). This authority to act as the CO's representative for personal property issues will be delegated to either the Organizational Property Management Officer or to a Property Administrator depending entirely on local procedures.

What are the functions of the Organizational Property Management Officer (OPMO)?

The OPMO is the key individual at a Field/Operations office with authority for administering the office's personal property management program. OPMOs normally are responsible for supporting several functions however, they shall:

Establish and administer a personal property management program for the field element which will provide for:

- Effective management of personal property in the custody of DOE and designated contractors, consistent with applicable laws and regulations;
- Application of regulations, instructions, standards, procedures, and practices as prescribed in the FPMR and DOE-PMR.;
- Planning and scheduling of personal property requirements to ensure that supplies and equipment are available to satisfy program needs while minimizing operating costs and inventory levels;
- Development and maintenance of complete and accurate inventory control and accountability record systems;
- Maximum utilization of available personal property for official purposes;
- Proper care and securing of personal property to include storage, handling, preservation, and preventative maintenance;
- Identification of personal property excess to the needs of the organization; re-utilization of the property within the Department; reporting of the property to GSA for transfer or donation; and disposition of surplus property by sale, abandonment, or destruction, as appropriate;
- Development and submission of required personal property reports;
- Assurance that DOE employees and designated contractors are aware that acts of theft, illegal possession, and

unlawful destruction or use of personal property are punishable violations of federal law, notwithstanding disciplinary measures taken under administrative policy;

- Assurance that DOE employees and its designated contractors are aware that every user of personal property is responsible for its physical protection and for reporting loss, theft, destruction, or damage of such property;
- Conduct periodic management reviews within the activity to ensure compliance with prescribed policies, regulations, standards, and procedures;
- Conduct periodic management reviews of contractor activities to ensure property management performance expectations are met by the contractor;
- Establishment of equipment and supply subsidiary records and accounts to support general ledger control accounts for personal property.

Other duties of the OPMO include:

- Process, through the contracting officer, requests for deviations to Departmental regulations;
- Serve as the principal point of contact for their organizations in matters concerning personal property management; and
- Represent their organizations at, or designate a representative to attend, Departmental meetings concerning

personal property management issues; and act as liaison with other DOE offices or other Federal agencies in personal property management.

What are the functions of the Property Administrator?

Depending on local procedures, if the authority to act as the CO's representative on an individual contract is delegated to an individual other than the OPMO, then the major functions of the COR for property management administration would be the following duties. If the OPMO is delegated that authority, then these functions would be added to the list delineated in the previous section:

- Represent contracting officers in the administration of all contract requirements and obligations relating to Government personal property;
- Make recommendations concerning acceptability of contractor personal property management systems;
- Develop and apply system survey programs for designated contractors under their cognizance;
- Evaluate contractor property control systems on an ongoing basis;
- Advise contracting officers and OPMOs of any contractor noncompliance with approved procedures, or other significant problems that they cannot resolve, and recommend appropriate action;

- Resolve property administration matters and obtain assistance as necessary from contractor management, OPMOs, and program, financial, legal, technical, and security specialists as needed;
- Perform other contract administration functions related to contractor personal property management operations as delegated by contracting officers; and
- Maintain records of current operating procedures issued under the contract.

Who is the Certified Realty Specialist?

The acquisition, management, and disposal of real property has been delegated in the field to the Certified Realty Specialists with the exception of donations of land to the Department and the condemnation of real property for Federal use. At some sites, the Certified Realty Specialist has approval and signatory authority for all actions including contractor actions. In most cases, the Certified Realty Specialist has approval authority only, with signatory authority either at the Operations Office manager level (or as delegated) for Federal actions, and at the Contracting Officer level for contractor activities. How a Certified Realty Specialist manages his or her program is largely discretionary within the bounds of statutory, regulatory, and guidance constraints. For example, a Certified Realty Specialist may set up a leasing program with a contractor whereby General Service Administration utilization goals, standard conditions, and local best business practices are invoked when a contractor enters into a lease for office or

other space. Once the leasing program is defined and accepted, and requirements defined and validated, the Certified Realty Specialist may only see the final product before execution. Certified Realty Specialists provide periodic oversight to ensure that space, for example, is being effectively utilized for the purposes leased.

In some situations, temporary interests in land (e.g., easements or licenses) are required to allow the contractor to perform. With Certified Realty Specialist assistance, the contractor often does the “leg work” for the temporary interest, but approval rests with the Certified Realty Specialist.

Whatever the contractor real estate action, the key to the success of the Certified Realty Specialist program vis-a-vis the contractor, is the acknowledgment by the Contract Administrator that real estate subject matter expertise rests with the Certified Realty Specialist and that all contractor real estate actions are to be submitted to the Certified Realty Specialist for review and approval.

Why is consultation with the Certified Realty Specialist important?

Situations where consultation has not occurred have resulted in the following contractor actions and Department consequences:

- Excess contractor space leased in the National Capitol Region and long term lease renewals that would not have otherwise been approved,
- Purchase orders for space which terms exceed best business practices,

- Sole source commitments for space without benefit of competition,
- Informal agreements with private landowners to use land without benefit of statutory entitlements to property owners, and
- Granting use of Federal lands and buildings without benefit of real estate instruments defining use and protecting Federal interests.

Facility Maintenance Management and How It Is Accomplished:

A primary Federal responsibility regarding management of real property is stewardship and maintenance of the assets in a condition to be able to meet mission requirements. In this regard, the contracting officer must have the contractor submit a **Maintenance Management Program Process Plan** (in consultation with the Federal maintenance manager) and approve it, provided it meets the minimum requirements as specified in the Contractor Requirements Document of DOE Order 430.1, “Land and Facility Use Planning.” The process must include the following:

- The identification, inventory, and periodic assessment of the condition of physical assets in the maintenance program,
- The establishment of requirements, budgets, and a work management system to maintain the physical assets in a condition suitable for their intended use,

- The preventive, predictive, and corrective maintenance to ensure physical asset availability for planned use and/or proper disposition,
- A configuration management process to ensure the integrity of physical assets and the management system,
- The efficient and effective management and use of energy and utilities,
- A method for the prioritization of infrastructure requirements,
- The management of backlogs associated with maintenance, repair, and capital improvements.

**TRANSPORTATION
MANAGEMENT**

**WHAT IS A GENERAL
DESCRIPTION OF THE
PROCESSES UNDER
TRANSPORTATION?**

It is important for members of the contract administration team to coordinate with the local DOE Transportation Manager before contract award during the drafting of the solicitation or contract, and when transportation issues arise under the Department’s Performance Based Management Contracts (PBMCs).

FAR 47.101, “Policies,” states that the contracting officer shall obtain traffic management advice and assistance in the

consideration of transportation factors required for:

- Solicitations and awards;
- Contract administration, modification, and termination; and
- Transportation of property by the Government to and from contractors' plants.

The proper planning and administration of transportation can avoid or mitigate both cost and safety concerns. The DOE order which outlines major safety responsibilities and authorities of DOE personnel, DOE M 411.1-1A, "Safety Management Functions, Responsibilities and Authorities Manual," specifically references transportation orders:

- DOE O 460.1A, "Packaging and Transportation Safety" and
- DOE O 460.2, "Departmental Materials Transportation and Management"

The Office of Environmental Management has departmental responsibility for all transportation authorities and is the corporate center of packaging and transportation expertise. It supports infrastructure and coordinated transportation activities for all DOE materials including hazardous materials, substances and wastes.

Typically, the Department's packaging and transportation activities are performed through four Program Offices which provide program policy direction and

oversight. The Office of Defense Programs manages weapons components and subassemblies transportation. The Office of Nuclear Energy, Science, and Technology/Naval Reactors manages the transportation of naval spent fuel and isotopes. The Office of Civilian and Radioactive Waste Management manages commercial spent fuel transportation programs. The Office of Environmental Management manages transportation of spent fuel, special nuclear materials and radioactive and hazardous waste materials and provides management direction (policy and guidance) and oversight for all Departmental elements having a transportation and/or packaging interest. Each DOE Field Element has a designated transportation manager who should be consulted and relied upon for all transportation matters.

However, the Office of Environmental Management is assigned DOE-wide responsibility to establish policy and guidance for DOE transportation and packaging management; represent DOE with other Federal activities; establish and maintain a transportation logistics program, etc.

Transportation responsibilities include providing the mechanisms to achieve the most efficient, economical and safe delivery of government materials from origin to final destination. In this process, DOE has negotiated tenders (discounted pricing agreements) with rail, air and motor carriers on behalf of the agency and its contractors. Tenders are located on the Automated Transportation Management System rate/route module. Rate and service negotiation support is available from the

DOE transportation manager. To obtain these pricing agreements and/or acquire information relating to transporting non-pricing agreement materials, contact the DOE transportation manager. Also, it's highly recommended that bid requests with transportation costs be separated from other costs.

When obtaining services that involve hazardous materials, the DOE transportation manager has a preferred motor carrier list that should be utilized to move such material. This list is based on results of the Motor Carrier Evaluation Program that evaluates motor carrier compliance to regulations, safe operations, financial stability, and equipment maintenance and road worthiness. Transportation safety is top priority to the Department. To obtain the list of preferred carriers, contact the Field Element Transportation Manager access the Internet web page address at <http://www.emwebwin.com/>, which is also listed in Appendix B.

In shipping situations where certain factors may warrant special considerations, (e.g. high value products, short delivery time, or excessive weight or dimensional parameters) it is recommended that the appropriate DOE contractor or DOE transportation specialist be contacted in order to achieve the best possible shipping scenario to meet each of the customers needs at the lowest landed cost.

Vehicles used by DOE Contractors are required to comply with local, state and federal regulations (49 CFR 350-399,

Federal Motor Carrier Safety Regulations). See DOE Order 460.1A and DOE O 460.2 for guidance concerning vehicle operators.

DOE maintains two directives with Contract Requirements Documents and guides governing transportation. These are:

- DOE Order 460.2, "Department Materials Transportation and Packaging Management;" and
- DOE Order 460.1A "Packaging and Transportation Safety".

The "DOE Transportation Operation Manual" is an excellent guidance manual to assist all DOE offices in the area of transportation; packaging, operations, and procurement personnel in ensuring transportation functions are implemented properly. The "DOE Transportation Operations Manual" may be obtained from the DOE/NV Transportation Manager at (702) 295-7444.

DOE Contractor transportation personnel are responsible for operations and logistics functions. DOE Transportation Managers in the Field elements provide contractor oversight and guidance. The Office of Environmental Management is responsible for programs that support transportation/packaging:

- Policy/guidance development,
- Integrated Safety Management,
- Regulatory compliance and oversight,

- Program integration
- Transportation and packaging management,
- Transportation stakeholder interface, and
- Systems engineering and analysis.

Where can I obtain general information on DOE transportation?

For general information relating to DOE transportation, refer to web site [http://www.ntp.doe.gov/](http://www.ntp.doe.gov) which is also listed in Appendix B. Specific information can be obtained by contacting the DOE Office of Transportation at 301-903-1969.

The Office of Environmental Management (EM) has established the National Transportation Program (NTP) with the Albuquerque Operations Office (AL) and the Idaho Operations Office (ID) to assist in coordinating transportation operations and activities among DOE Field elements. The NTP participants (EM, AL and ID) work with DOE Field elements and contractors to provide assistance in transportation matters.

WHAT ARE MY MAJOR ROLES AND RESPONSIBILITIES IN THE AREA OF PROPERTY AND TRANSPORTATION MANAGEMENT?

On the following pages are the major roles and responsibilities of members of the contract administration team. Key sections of documents have been summarized for ease of reference. Please bear in mind that the referenced documents themselves are controlling and should be consulted for a complete discussion of the various roles, responsibilities and requirements. Additionally, other documents, not listed here, may contain other roles and responsibilities.

Note: Various responsibilities on the following pages are marked with an asterisk (*). This signifies that the responsibility is not specifically assigned to this individual by a clause, regulation, or procedure. It is suggested because:

- (1) The responsibility is necessary to perform Government contract administration responsibilities; and is either commonly performed by this individual or reflects "good business practice."
- (2) The responsibility is stated in the reference as a DOE/Government responsibility; and is either commonly performed by this individual or reflects "good business practice."

Local guidance may determine who specifically is obligated to perform the responsibility.

MAJOR ROLES AND RESPONSIBILITIES IN THE AREA OF PERSONAL PROPERTY MANAGEMENT

HEADS OF FIELD ORGANIZATIONS

* Ensure that a personal property management program is established for their organizations.
[Title 41 CFR Part 109, "DOE Property Management Regulations"]

* Appoint an Organizational Property Management Officer responsible for the organization's personal property management program.
[Title 41 CFR Part 109, "DOE Property Management Regulations"]

DEPARTMENTAL PROPERTY MANAGEMENT OFFICER

* Develop and issue Departmental personal property management policies and guidance.
[Title 41 CFR Part 109, “DOE Property Management Regulations”]

* Administer and evaluate the Department’s personal property management program.
[Title 41 CFR Part 109, “DOE Property Management Regulations”]

ORGANIZATIONAL PROPERTY MANAGEMENT OFFICER

* Establish and administer personal property management programs within their organizations in accordance with the Federal requirements prescribed in the FPMR and Departmental standards and practices contained in this chapter.
[Title 41 CFR Part 109, “DOE Property Management Regulations”]

* Conduct periodic management reviews to assure organizational compliance with prescribed Federal and Departmental policies, regulations, and standards.

* Serve as principal point of contact for their organization in matters regarding personal property management.

CONTRACTING OFFICER

* Determine whether to delegate authority to a Property Administrator to act as the CO’s authorized representative for handling personal property matters.

Direct the disposition of property during the progress of the work or upon completion or termination of the contract.

[DEAR 970.5204-21]

Direct the contractor to identify Government property by marking and segregating such that Government ownership is indicated.

[DEAR 970.5204-21]

Direct the contractor to conduct physical inventories as prescribed by regulation.

[DEAR 970.5204-21]

Approve, as appropriate, the contractor to sell, exchange, or acquire Government property at a fair market price as agreed upon with the contractor.

[DEAR 970.5204-21]

Direct the application of proceeds from a property disposition to either the reduction of costs allowable under the contract, or credit to account to the Government.

[DEAR 970.5204-21]

Require the contractor to render an accounting of all Government property which has come into its possession or custody under this contract upon completion of the work or termination of the contract.

[DEAR 970.5204-21]

May direct the contractor to safeguard and protect Government property in his possession or custody in accordance with sound business practices.

[DEAR 970.5204-21]

May direct, in writing, the contractor to safeguard high-risk property and classified materials.

[DEAR 970.5204-21]

Inform the contractor when there is reason to believe that lost, damaged, or destroyed Government property is the result of contractor managerial personnel's: willful misconduct or lack of good faith; failure to take reasonable steps to comply with written direction of the CO to safeguard property, or; failure to establish, administer, or properly maintain an approved property management system in accordance with Federal Regulations.

Determine whether the contractor has met its burden of proof to show that it should not be required to compensate the Government for the loss, destruction or damage to property.

[DEAR 970.5204-21]

Determine a fair market value for lost, damaged or destroyed property if none exists.

[DEAR 970.5204-21]

Approve the contractor's property management system when maintained and administered in accordance with sound business practice, Federal regulations, directives, and specified instructions and when it provides for:

- Comprehensive coverage of Government property's entire life cycle from identification through disposition;
- Employee personal responsibility and accountability;
- Full integration with contractor's other administrative and financial systems; and

- A method for continuously improving property management practices through practices established by “best in class” performers.

[DEAR 970.5204-21]

* Ensure, for property management system approval, that the contractor provides a baseline inventory of all Government property within six months of contract execution, unless the CO directs otherwise.

[DEAR 970.5204-21]

* Ensure, for property management system approval, a joint reconciliation of the property inventory with any predecessor contractor

[DEAR 970.5204-21]

Authorize, when appropriate, the contractor to obtain and use Interagency Fleet Management System vehicles and related services.

[FAR 52.251-2]

Obtain Interagency Fleet Management System vehicles and related services when authorized by the CO.

[FAR 52.251-2]

PROPERTY ADMINISTRATOR

- * Support the contract administration function.
- * Is an authorized representative of the CO regarding the contractual and technical aspects of Government property.
- * Act on behalf of the CO and is appointed in writing by a “Certificate of Appointment.”
- * Evaluate the contractor’s property management system in writing.
- * Administer an approved property program for Government property through its life cycle to final disposition.
- * Review the contractor’s property system procedures.

CONTRACTOR

Identify Government property coming into its possession or custody by marking and segregating it in a way that indicates Government ownership.

[DEAR 970.5204-21; Title 41 CFR 109 - 1.5105; Title 41 CFR 109 - 1.5106]

Dispose of Government property in its possession or custody as directed by the CO.
Sell, exchange, or acquire Government property at a fair market value as agreed by the CO.
Apply amount received from disposition of property to reduce costs allowable under the contract, or otherwise credited to account to the Government as directed by the CO.
Render an accounting of all Government property which has come into its possession or custody under the contract upon completion of the work or termination of the contract.

[DEAR 970.5204-21]

Take all reasonable precautions in addition to other actions directed by the CO to safeguard and protect Government property.

[DEAR 970.5204-21]

Ensure that adequate safeguards are established and complied with for the handling, control, and disposition of High-Risk property and classified materials consistent with practices and procedures for property management contained in Federal Regulations.

[DEAR 970.5204-21]

Understand and agree that the term “contractor’s managerial personnel” means directors, officers, managers, superintendents, or other equivalent representatives who have supervision or direction of the following in connection with the performance of a contract:

- All or substantially all of the business; or
- All or substantially all of the operations at any one facility or separate location; or
- A separate and complete major industrial operation; or
- A separate and complete major construction, alteration, or repair operation; or
- A separate or discrete major task or operation.

Understands and agrees that for a nonprofit situation, the term “contractor’s managerial personnel” means directors, officers, managers, superintendents, or other equivalent representatives who have supervision or direction of all or substantially all of:

- (a) the business; or
- (b) the operations at any one facility or separate location; or
- (c) the contractor’s Government property system and/or Major System Acquisition or Major Project.

[DEAR 970.5204-21]

Is liable for the loss, destruction, or damage to Government property caused by:

- willful misconduct or lack of good faith on the part of the Contractor’s managerial personnel;
- failure of contractor managerial personnel to take all reasonable steps to comply with appropriate written direction of the CO regarding property and classified materials;

- failure of contractor managerial personnel to establish, administer, or properly maintain an approved property management system in accordance with Federal Regulations and directives or instructions from the CO.

Has the burden of proof to demonstrate that it should not be required to compensate the Government if its property is lost, damaged, or destroyed as a result of conduct listed above.

[DEAR 970.5204-21]

Compensate the Government if it is determined liable for lost, damaged, or destroyed property as follows:

- Damaged property: pays for repair plus costs incurred for temporary replacement. Costs to repair will not exceed fair market value of property.
- Destroyed or lost property: pays fair market value of property at time of loss or destruction, plus costs incurred for temporary replacement or disposition of destroyed property.

Accepts CO's determination of what property's fair market value is if it is determined that no fair market value exists.

[DEAR 970.5204-21]

In the event of damaged, destroyed, or lost property:

- Immediately inform the CO of the occasion or extent;
- Take all reasonable steps to protect the remaining property;
- Repair or replace the property in accordance with CO's written direction.
- Take no action prejudicial to the right of the Government to recover, and provides all reasonable assistance in obtaining recovery.

[DEAR 970.5204-21]

Use Government property only for performance of the contract.

[DEAR 970.5204-21]

Establish, administer, and properly maintain an approved property management system for Government property in its possession.

The system accounts for control, utilization, maintenance, repair, protection, preservation, and disposition of the property and is maintained and administered in accordance with sound business practices, Federal Regulations, directives, and instructions as prescribed by the CO.

[DEAR 970.5204-21]

Design a system that provides for:

- Comprehensive coverage of Government property's entire life cycle, from identification through disposition;
- Employee personal responsibility and accountability;
- Full integration with contractor's other administrative and financial systems;

- A method for continuously improving property management practices through practices established by “best in class” performers.

[DEAR 970.5204-21]

Provide a baseline inventory of all Government property within six months after execution of the contract.

[DEAR 970.5204-21]

Conduct a joint reconciliation of the property inventory with any predecessor contractor. Agree to participate in a joint reconciliation of the property inventory upon completion of the contract.

[DEAR 970.5204-21]

Furnish DOE the documentation required by the State to acquire tags.

[DEAR 952.208-7]

Operate all leased motor vehicles on Federal tags unless it is determined that State tags are necessary to accomplish the mission.

[DEAR 952.208-7]

PROPERTY CUSTODIAN

* Provide reasonable physical protection for property.

[DEAR 970.5204-21]

* Report consumption, i.e., shrinkage (unlocated and damaged) to supervisors promptly.

[DEAR 970.5204-21]

* Contact the property control activity when property is no longer required or repairs are required.

[DEAR 970.5204-21]

* Contact the accountable individual when changes in custody occur.

[DEAR 970.5204-21]

* Use property for official purposes only.

[DEAR 970.5204-21]

* Apprise the accountable individual regarding disposal risks of property (i.e., High Risk).

[DEAR 970.5204-21]

MAJOR ROLES AND RESPONSIBILITIES FOR REAL PROPERTY

CONTRACTING OFFICER

Approve the purchase, lease, or temporary acquisition of real property by the contractor (*In consultation with a Certified Realty Specialist).

Provide the contractor (*in consultation with a Certified Realty Specialist) with direction on the justification of and execution of any real property acquisitions.

[DEAR 952.217-70]

Ensure the requirements specified in the Contractor Requirements Document are included in contracts and subcontracts. Work with each contractor to document in a formal agreement and/or contract the establishment and use of agreed upon performance-based objectives, measures, and expectations for these requirements.

[DOE O 430.1A]

CONTRACTOR

Acquire or propose to acquire, with the prior written approval of the contracting officer, real property by purchase, lease, or acquisition of temporary interest through easement, permit or license. (Note: At DOE, contractors have not acquired real property for the Government, although they have been allowed to do much of the preparatory work. Please consult your Certified Realty Specialist if this issue arises.)

[DEAR 952.217-70]

Ensure justification and execution of any real property acquisition is in accordance with CO's direction.

[DEAR 952.217-70]

Include DEAR 952.217-70 in all subcontracts in which real property will be acquired.

[DEAR 952.217-70]

Use a process for the operation and maintenance of physical assets that shall ensure, as a minimum:

- The identification, inventory, and periodic assessment of the condition of physical assets in the maintenance program.
- The establishment of requirements, budgets, and a work management system to maintain physical assets in a condition suitable for their intended use.
- The preventive, predictive, and corrective maintenance to ensure physical asset availability for planned use and/or proper disposition.
- A configuration management process to ensure the integrity of physical assets and system.
- The efficient and effective management and use of energy and utilities.
- A method for the prioritization of infrastructure requirements.
- The management of backlogs associated with maintenance, repair, and capital improvements.

[DOE O 430.1A]

MAJOR ROLES AND RESPONSIBILITIES FOR TRANSPORTATION

OFFICE OF ENVIRONMENTAL MANAGEMENT

Certifying official responsible for administration of DOE program for certification of fissile and Type B packaging.

Approve DOE contractor facilities for test and evaluation of Department of Transportation Specification package designs for radioactive materials.

Provide the point of coordination for DOE with outside regulatory agencies concerning transportation safety packaging.

Review requests for DOT Certificates of Competent Authority for international transportation and NRC Certificates of Compliance and forward requests to the appropriate agency.

Support the sharing of packaging and transportation safety successes and corrective actions through lessons learned program.

Provide technical assistance and training for packaging and transportation safety matters.

[DOE O 460.1A]

Establishes policy and guidance for DOE materials transportation and packaging

Represents DOE in matters dealing with transportation and packaging operations with other Federal entities.

Establishes and manages a transportation logistics program.

Conducts technical assessments of DOE Field Elements.

[DOE O 460.2]

PROGRAM OFFICE

Ensure DOE Field Elements and contractors fully implement and comply with this order.

Coordinate program related transportation plans and systems and packaging development activities with the Office of Environmental Management.

Conduct program reviews of transportation and packaging management with the Office of Environmental Management.

[DOE O 460.2]

OPERATIONS/FIELD OFFICE MANAGER

Ensure contractors under their purview fully implement and comply with the Order.

Review and approve contractor onsite Transportation Safety Documents.

Review and process through the Office of Environmental Management: requests for DOE exemptions, Department of Transportation exemptions and renewals, and Nuclear Regulatory Commission packaging certificates.

Review and process Safety Analysis Reports for Packagings through the responsible Secretarial Officer.

Determine whether adequate protection can most effectively be achieved by operating under old or revised Orders.

Ensure the Contractor Requirements Document is incorporated into contracts by the CO either through a clause or statement of work.

Obtain waivers from tribal, state, and local transportation laws, rules and regulations as needed and provide to the responsible Secretarial Officer and the Office of Environmental Management.

[DOE O 460.1A]

Ensure that all DOE Field Elements and contractors under their purview involved in performing or managing transportation and packaging fully implement and comply with the requirements of this order.

Issue Price-Anderson indemnity agreement certificates to carriers, upon their request, or notify the requesting carriers and the referring organization, as applicable, that the shipment is not covered by an indemnity agreement.

Negotiate with carriers, or authorize cost-type contractors to negotiate with carriers, concerning rates, classification ratings, services, and related transportation matters.

Conduct Technical Assessments of site transportation and packaging programs at least every 3 years, and provide timely notice to EM-26 of the need for associated technology for use in transportation and packaging operations and development.

[DOE O 460.2]

Determine whether to request a contracting officer to incorporate the requirements of the Contractor Requirements Document into new or existing contracts or whether the requirements of the canceled Orders should remain effective as incorporated into existing contracts in order to provide adequate protection.

[DOE O 460.2]

CONTRACTING OFFICER

Grant written permission to ship in other vessels and equitably adjust the contract price to reflect the difference in cost. **[FAR 52.247-64]**

Authorize, if advisable, supplies to be shipped on a commercial bill of lading.
[FAR 52.247-1]

Authorize, to the extent advantageous to the Government, supplies to be shipped on a Government bill of lading
[41 CFR 109-40.50]

CONTRACTOR

Ensure before shipment is made that the commercial shipping documents are annotated whether government is consignor/consignee in accordance with the clause.
[FAR 52.247-1, 41 CFR 109-40, DOE O 460.2]

Agree to use and have subcontractors use U.S.-flag air carriers for international transportation of personnel (and their personal effects) or property to the extent that service by those carriers is available. **[FAR 52.247-63]**

Include a statement of unavailability of a U.S.-flag air carrier on the voucher identifying the essentiality of such travel and the rationale for that action if a carrier other than a U.S.-flag air carrier is used. **[FAR 52.247-63]**

Use privately owned U.S.-flag commercial vessels to ship at least 50 percent of the gross tonnage under the contract whenever shipping any equipment, materials, or commodities, under the conditions set forth in paragraph (a) to the extent that such vessels are available at rates that are fair and reasonable for privately owned U.S. -flag commercial vessels.
[FAR 52.247-64]

Submit one legible copy of a rated on-board ocean bill of lading for each shipment to the CO and the Office of Cargo Preference, in accordance with the clause.
Subcontractor bills of lading are submitted through the prime contractor.
[FAR 52.247-64]

Insert the substance of the clause in all subcontracts or purchase orders, except for contracts at or below the simplified acquisition threshold.
[FAR 52.247-64]

WHERE CAN I GO FOR MORE DETAILED INFORMATION ON TRANSPORTATION AND PROPERTY MANAGEMENT?

On Personal Property Management

1. DEAR 952.208-7, "Tagging of Leased Vehicles"
2. DEAR 970.5204-21, "Property"
3. Department of Energy Property Management Regulations (Title 41 CFR Chapter 109)
4. Acquisition Guide, Chapter 45, "Government Property"
5. Federal Property Management Regulations (Title 41 CFR Chapter 101)
6. FAR 52.251-2, "Interagency Fleet Management System Vehicles and Related Services"

On Real Property Management

7. DEAR 952.217-70, "Acquisition of Real Property"
8. Acquisition Guide, Chapter 45, "Government Property"
9. DOE Order 430.1, "Land and Facility Use Planning"
10. DOE O 430.1A, "Life Cycle Asset Management"
11. Federal Property Regulations (Code of Federal Regulations, Title 41, Chapter 101)
12. DOE Real Estate Process, Desk Guide for Real Estate Personnel (This Guide is not available electronically through the Internet but may be accessed through the Certified Realty Specialist.)

On Transportation Management

13. FAR 52.247-1, "Commercial Bill of Lading Notations"
14. FAR 52.247-63, "Preference for U.S.-Flag Air Carriers"
15. FAR 52.247-64, "Preference for Privately Owned U.S.-Flag Commercial Vessels"
16. DOE O 460.1A, "Packaging and Transportation Safety"
17. DOE O 460.2, "Departmental Materials Transportation and Management"
18. 41 CFR 101-40 "Transportation and Traffic Management" (Federal Regulations)
19. 41 CFR 109-40 "Transportation and Traffic Management" (DOE Regulations)

20. 49 CFR (all chapters)
21. DOE G 460.2 "Implementation Guide for DOE O 460.2"
22. DOE Transportation Operations Manual

**DO YOU HAVE ANY COMMENTS OR SUGGESTIONS FOR
IMPROVING THIS CHAPTER OR THE BOOK? IF SO, PLEASE
CONTACT US AT:**

editor@pr.doe.gov