



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
RESEARCH, DEVELOPMENT AND ACQUISITION
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

JUL 26 2000

MEMORANDUM FOR DISTRIBUTION

Subj: CHANGE TO NAVY ACQUISITION PROCEDURES SUPPLEMENT (NAPS)
PERTAINING TO FAR/DFARS PART 25/225 REWRITE, AND TECHNICAL
AMENDMENTS

Encl: (1) NAPS Change #97-12

FAR Part 25 and DFARS Part 225 were recently rewritten in their entireties. The associated changes to NAPS Part 5225 are provided herewith. Additionally, a few administrative changes/corrections and technical amendments are also included in this change.

The changes identified in enclosure (1) are hereby incorporated into the August 1997 NAPS.

These changes are effective immediately, and will be reflected in the NAPS Online.


Paul P. Buonaccorsi
Executive Director
Acquisition and Business
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PERTAINING TO FAR/DFARS PART 25/225 REWRITE, AND TECHNICAL
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NAVY ACQUISITION PROCEDURES SUPPLEMENT CHANGE #97-12

The following changes are hereby incorporated into the August 1997 NAPS.

1. NAPS Section 5207.107 is added as follows:

PART 5207

ACQUISITION PLANNING

SUBPART 5207.1—ACQUISITION PLANS

5207.107 Additional requirements for acquisitions involving bundling of contract requirements.

- (c) Requests for NAE determinations must be submitted through ABM.

2. NAPS 5216.306 is added as follows:

PART 5216

TYPES OF CONTRACTS

SUBPART 5216.3 COST REIMBURSEMENT CONTRACTS

5216.306 (DFARS 216.306) Cost-plus-fixed-fee contracts.

(c) *Limitations.*

(ii)(B)(1) COMNAVFAC is delegated authority to approve cost-plus-fixed-fee contracts for environmental work only, provided the environmental work is not classified as construction, as defined by 10 U.S.C. 2801.

(2) Requests for approval of cost-plus-fixed-fee contracts requiring Secretary of Defense approval must be routed through COMNAVFAC and ABM.

3. NAPS 5217.171 is added as follows:

PART 5217

SPECIAL CONTRACTING METHODS

SUBPART 5217.1—MULTI-YEAR CONTRACTING

5217.171 (DFARS 217.171) Multiyear contracts for services.

(a) *10 U.S.C. 2306(g).*

(3) HCAs are delegated the authority to make the determinations described in DFARS 217.171(a)(3).

NAVY ACQUISITION PROCEDURES SUPPLEMENT CHANGE #97-12

4. NAPS Subpart 5223.1 is deleted, to reflect the FAC 97-15 removal of FAR Subpart 23.1. Additionally, NAPS 5223.405 is changed as follows:

PART 5223

ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

SUBPART 5223.4 USE OF RECOVERED MATERIAL

5223.405 Solicitation provisions and contract clause

(b) When using the clause at FAR 52.223-9, contracting officers shall insert the following address into paragraph (c) of the clause:

Commanding Officer
Naval Facilities Engineering Service Center
Code 424 CA, 1100 23rd Avenue
Port Hueneme, CA 93043-4370

5. NAPS Subparts 5225.1 through 5225.4 are revised in their entireties to reflect the FAR Part 25 and DFARS Part 225 rewrites as follows:

PART 5225

FOREIGN ACQUISITION

SUBPART 5225.1—BUY AMERICAN ACT—SUPPLIES

5225.103 Exceptions.

(b) *Nonavailability.*

(2)(ii) Copies of determinations made under FAR 25.103(b)(2) that are submitted to the DAR Council must be submitted via ABM.

5225.103 (DFARS 225.103) Exceptions.

(b) *Nonavailability.*

(ii)(D) The HCA is the agency head's designee, without power of redesignation, to make and approve determinations for acquisitions estimated to exceed \$2 million.

SUBPART 5225.2—BUY AMERICAN ACT—CONSTRUCTION MATERIALS

5225.202 (DFARS 225.202) Exceptions.

(a)(1) *Impracticable or inconsistent with the public interest.* The Commander, NAVFACENGCOM is delegated authority to make this determination.

(2) *Nonavailability.* Authority to make nonavailability determinations which would otherwise require approval of the head of the agency is delegated to the Commander, NAVFACENGCOM.

SUBPART 5225.4—TRADE AGREEMENTS

5225.401 (DFARS 225.401) Exceptions.

(b)(i) Submit requests to USD(AT&L)DP through ABM in the form of a determination and findings.

(ii)(B) Submit a copy of the justification to USD(AT&L)DP through ABM.

5225.403 (DFARS 225.403) Trade Agreements Act.

(c)(iii) Submit requests for national interest waivers to the USD(AT&L)DP through ABM in the form of a determination and findings.

6. NAPS 5245.407 is added as follows:

PART 5245

GOVERNMENT PROPERTY

SUBPART 5245.4—CONTRACTOR USE AND RENTAL OF GOVERNMENT PROPERTY

5245.407 (DFARS 245.407) Non-Government use of plant equipment.

(a)(ii) HCAs are delegated approval authority. As noted at DFARS 245.407(a)(ii), any redelegation requires the approval of the Office of the Deputy Under Secretary of Defense (Industrial Affairs and Installations).

7. The following editorial changes/corrections are incorporated:

a. Change the references to "USD(A&T)" in NAPS Sections 5201.304, 5201.402, 5202.101, 5209.103, 5225.802 and 5235.006 to "USD(AT&L)."

b. NAPS 5216.505(b)(4) is renumbered to "(b)(5)" to reflect the FAR renumbering of FAC 97-17.

NAVY ACQUISITION PROCEDURES SUPPLEMENT CHANGE #97-12

- c. NAPS Subpart 5225.3 is deleted.
 - d. NAPS 5236.271 is deleted.
 - e. The ABM address cited in NAPS 5245.505-14(c) (S-90) is corrected.
8. NAPS change pages are attached.

NAVY ACQUISITION PROCEDURES SUPPLEMENT CHANGE #97-12

(C) Standard Component Clauses.

(a) Usage. All component clauses used in solicitations and/or contracts must be standard clauses, unless:

(1) A deviation has been authorized in accordance with (c) below; or

(2) One of the exceptions listed in (D) below permitting use of non-standard clauses is applicable.

(b)(1) Each contracting activity shall publish new component clauses or changes to existing component clauses that require USD(AT&L) approval as a proposed rule in the Federal Register for public comment. After receipt and analysis of public comments, the contracting activity shall submit the proposed rule, in accordance with DFARS 201.201-1(d)/NAPS 5201.201-1(d) and DFARS 201.301, through the HCA and ABM to the DAR Council Director, prior to publication as a final rule.

(2) New standard component clauses, or changes to existing component clauses, which do not have significant cost or administrative impact on offerors/contractors, do not require publication for public comment or approval of ABM or USD(AT&L). Copies of all new standard component clauses or changes, that do not require ABM or USD(AT&L) approval, shall be provided to ABM for inclusion in the Navy clause baseline.

(c) In competitive procurements, modifications of standard component clauses which may significantly increase cost or administrative impact on offerors/contractors shall be submitted by the Deputy/Assistant Commander for Contracts to the DAR Council Director, via ABM, for approval by USD(AT&L)DP. The HCA may approve other changes to standard component clauses that do not constitute deviations to the FAR/DFARS/NAPS.

(d) All standard component clauses shall be numbered in accordance with 5252.101.

(D) Non-standard Component Clauses. Non-standard clauses are not included in the Navy clause baseline and do not require approval of ABM, unless usage constitutes a deviation from FAR/DFARS/NAPS. Non-standard Component Clauses may be used only when they are:

(a) non-standard negotiated component clauses used by mutual agreement of both parties in non-competitive procurements;

(b) non-standard component clauses in dual source or limited competition procurements that have advance agreement of the parties;

(c) clauses required by FAR or DFARS to be tailored to the individual situation (such as Organizational Conflict of Interest);

(d) provisions providing proposal preparation requirements or evaluation/award criteria; or

(e) clauses which have no significant cost or administrative impact on offerors/contractors, and the contracting activity chooses not to designate or control them as standard component clauses.

(E) "Substantially the Same As" Clauses. Component clauses may be used to implement FAR/DFARS/NAPS clauses which permit usage of clauses "substantially

the same as" the prescribed clause or other variation. These clauses do not require ABM approval. "Substantially the same as" clauses should cite the FAR/DFARS/NAPS clause number, title, and date followed by (VARIATION).

SUBPART 5201.4—DEVIATIONS FROM THE FAR

5201.402 (DFARS 201.402) Policy.

- (1) Submit requests for deviations which require USD(AT&L)DP approval to ABM.
 - (ii) Deviations involving basic agreements, basic ordering agreements, or master agreements are considered class deviations.
- (2) ABM is the approval authority for:
 - (i) individual deviations from the FAR or DFARS other than those specified in DFARS 201.402(1)(i), except that in the case of a purchase or contract by an offshore contracting activity with a foreign contractor made outside the United States, its possessions, or Puerto Rico, deviations from contract clauses may be granted by the HCA provided that no change in intent, principle, or substance is made.
 - (ii) individual or class deviations from NAPS.
 - (iii) deviations from certain component clauses (see 5201.304(4)).

SUBPART 5201.6—CAREER DEVELOPMENT, CONTRACTING AUTHORITY, AND RESPONSIBILITIES

5201.601 General.

Within this supplement, any authorities assigned or delegated to a specific level may be delegated or redelegated, unless otherwise restricted.

5201.601(90) Department of the Navy authorities and responsibilities.

(a) **Assistant Secretary of the Navy (Research, Development and Acquisition) (ASN(RD&A))**. SECNAVINST 5400.15(current version) establishes the duties and responsibilities of the ASN(RD&A), including serving as the NAE and NSPE.

(b) NAVFACENGCOM cognizance of public works and civil works.

(1) Responsibility. Commander, NAVFACENGCOM is responsible for awarding and administering all architect-engineer, construction and facilities support contracts.

(2) Administration of construction portions of contracts. When a contract for construction of civil works is made directly between the DoN and a builder (as distinguished from the contractor who is to operate the facilities) NAVFACENGCOM will be the contracting agency with the work to be financed by transfer of funds from the sponsoring contracting activity to NAVFACENGCOM. All other contracts potentially requiring construction of civil works shall include the clause at 5252.201-9000, Civil Works - Delegation to Naval Facilities Engineering Command.

PART 5202

DEFINITIONS OF WORDS AND TERMS

SUBPART 5202.1—DEFINITIONS

5202.101 Definitions.

"ABM" means the Deputy for Acquisition and Business Management, Office of the Assistant Secretary of the Navy (Research, Development and Acquisition).

"ASN(FM&C)" means Assistant Secretary of the Navy (Financial Management and Comptroller).

"ASN(RD&A)" means Assistant Secretary of the Navy (Research, Development and Acquisition).

"CCO" means the "Chief of the Contracting Office". The CCO is the official who has overall responsibility for managing the entire contracting office and includes the principal deputy to such official.

"Deputy/Assistant Commander for Contracts" means the Deputy or Assistant Commander for Contracts or the equivalent at a Systems Command, the Headquarters, Naval Facilities Engineering Command; Marine Corps Systems Command; Deputy Chief of Staff (Installation and Logistics) Headquarters Marine Corps; Office of Naval Research; Military Sealift Command; and Strategic Systems Programs. It also includes the principal deputy for these officials.

"Director, SADB" means the Director, Small and Disadvantaged Business Utilization, Office of the Under Secretary of the Navy.

"DRPM" means Direct Reporting Program Manager.

"MSC" means the Military Sealift Command

"NAE" means the Navy Acquisition Executive. ASN(RD&A) is the NAE.

"NAVAIRSYSCOM" means the Naval Air Systems Command.

"NAVFACENGCOM" means the Naval Facilities Engineering Command.

"NAVSEASYSYSCOM" means the Naval Sea Systems Command.

"NAVSUPSYSCOM" means the Naval Supply Systems Command.

"Navy" or "DoN" means the Department of Navy including the Marine Corps, unless otherwise specified.

"NSPE" means Navy Senior Procurement Executive. ASN(RD&A) is the NSPE.

"PEO" means Program Executive Officer.

"SPAWARSYSCOM" means the Space and Naval Warfare Systems Command.

"SSP" means Strategic Systems Programs.

"USD(AT&L)" means Under Secretary of Defense (Acquisition, Technology and Logistics).

"USD(AT&L)DP" means the Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition, Technology and Logistics).

PART 5207

ACQUISITION PLANNING

SUBPART 5207.1—ACQUISITION PLANS

5207.103 (DFARS 207.103) Agency-head responsibilities.

(c)(ii) Written acquisition plans (APs) are not required for military construction; commercial items; spare and repair parts; items of supply which are managed on a national basis where requirements are computed in accordance with established DoD/DoN inventory management policy/regulation; overhaul and/or modification of naval vessels, small vessels and crafts (including MSC vessels/crafts); overhaul and/or modification of engines; operation and maintenance of weapon test/training ranges; ocean towage; Commercial Activities; architect-engineer; major station maintenance and repair; and component overhaul/maintenance/repair at the depot, intermediate or organizational levels.

(h) Cognizant Program Executive Officers (PEOs), Direct Reporting Program Managers (DRPMs) or HCAs, and their designees are authorized to approve APs. APs should be signed by the approving official, the program manager, the CCO and the contracting officer.

5207.107 Additional requirements for acquisitions involving bundling of contract requirements.

(c) Requests for NAE determinations must be submitted through ABM.

PART 5209

CONTRACTOR QUALIFICATIONS

SUBPART 5209.1—RESPONSIBLE PROSPECTIVE CONTRACTORS

5209.103 (DFARS 209.103) Policy.

(a)(i)(C) Submit requests for USD(AT&L) approval via ABM.

SUBPART 5209.2—QUALIFICATIONS REQUIREMENTS

5209.202 Policy.

(a)(1) The HCA is the agency head's designee to prepare the written justification.

SUBPART 5209.4—DEBARMENT, SUSPENSION AND INELIGIBILITY

5209.402 Policy.

Counsel, Procurement Integrity Office (Counsel (PIO)) has the responsibility for processing and recommending debarment or suspension action to the debarring and suspending official.

5209.404 Parties Excluded from Procurement Programs.

(c)(1),(2),(3),(4) and (5) Counsel (PIO) will provide the required notification, maintain the records, and distribute the list to all DoN activities.

(c)(6) Inquiries and requests for additions, deletions or changes (including quantity changes) for distribution addressees should be forwarded to the Counsel (PIO), Office of the General Counsel, Legal Services Support Group, Department of the Navy, Washington, D.C. 20360-5110.

5209.405 (DFARS 209.405) Effect of listing.

(a) ASN(RD&A) will provide the written statement of the compelling reasons. Submit requests for approval to ABM with justification for the proposed consent action.

5209.405-2 Restrictions on subcontracting.

(b) Immediately upon receipt, the contracting officer shall provide ABM with an informational copy of the written notification received from the contractor.

PART 5216

TYPES OF CONTRACTS

SUBPART 5216.3 COST REIMBURSEMENT CONTRACTS

5216.306 (DFARS 216.306) Cost-plus-fixed-fee contracts.

(c) *Limitations.*

(ii)(B)(1) COMNAVFAC is delegated authority to approve cost-plus-fixed-fee contracts for environmental work only, provided the environmental work is not classified as construction, as defined by 10 U.S.C. 2801.

(2) Requests for approval of cost-plus-fixed-fee contracts requiring Secretary of Defense approval must be routed through COMNAVFAC and ABM.

SUBPART 5216.5—INDEFINITE-DELIVERY CONTRACTS

5216.505 Ordering.

(b)(5) The task order contract and delivery order contract ombudsman responsible for reviewing complaints from contractors on task order contracts and delivery order contracts is the Navy Competition Advocate General. Contractors should be encouraged to settle their complaints through the Competition Advocate chain of command, seeking review by the Command Competition Advocate at the cognizant HCA before taking their complaints to the Navy Competition Advocate General.

PART 5217

SPECIAL CONTRACTING METHODS

SUBPART 5217.1—MULTI-YEAR CONTRACTING

5217.105 Policy.

5217.105-1 Uses.

(b) HCAs have authority to award multi-year contracts, subject to restrictions contained in the FAR and DFARS.

5217.171 (DFARS 217.171) Multiyear contracts for services.

(a) *10 U.S.C. 2306(g)*.

(3) HCAs are delegated the authority to make the determinations described in DFARS 217.171(a)(3).

SUBPART 5217.2—OPTIONS

5217.204 Contracts.

(e) The CCO may approve contracts in excess of the limits specified in FAR 17.204(e), when not otherwise restricted.

PART 5223

**ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE
WORKPLACE**

**SUBPART 5223.3—HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL
SAFETY DATA**

5223.370 Safety precautions for ammunitions and explosives.

5223.370-3 (DFARS 223.370-3) Policy.

(90) DoN policy is to ensure the safe handling of all ammunition and explosives (A&E). To that end, particular care must be paid to A&E provided to contractors as Government Furnished Material (GFM) when the A&E contain nitrocellulose-based propellants and/or nitrate ester-based materials (such as nitroglycerin,) or any other materials which have a tendency to become chemically unstable over time.

5223.370-5 (DFARS 223.370-5) Contract clauses.

(a) Use the clause at 5252.223-9000, DoN ADDITIONAL SAFETY REQUIREMENTS APPLICABLE TO SPECIFIED GOVERNMENT FURNISHED AMMUNITION AND EXPLOSIVES, in solicitations and contracts which:

- (1) contain the clause at DFARS 252.223-7002, and
- (2) provide as GFM any A&E containing nitrocellulose-based propellants and/or nitrate ester-based materials (such as nitroglycerin,) or other similar A&E with a tendency to become chemically unstable over time.

(b) The head of the activity may make administrative adjustments to the additional requirements (e.g. specify activity points of contact, adjust specified lead times) or add further measures which increase safety requirements as appropriate.

SUBPART 5223.4 USE OF RECOVERED MATERIAL

5223.405 Solicitation provisions and contract clause

(b) When using the clause at FAR 52.223-9, contracting officers shall insert the following address into paragraph (c) of the clause:

Commanding Officer
Naval Facilities Engineering Service Center
Code 424 CA, 1100 23rd Avenue
Port Hueneme, CA 93043-4370

SUBPART 5223.5—DRUG-FREE WORKPLACE

5223.506 Suspension of payments, termination of contracts, and debarment and suspension actions.

- (e) Submit requests for waiver to ABM via the HCA.

PART 5225

FOREIGN ACQUISITION

SUBPART 5225.1—BUY AMERICAN ACT—SUPPLIES

5225.103 Exceptions.

(b) *Nonavailability.*

(2)(ii) Copies of determinations made under FAR 25.103(b)(2) that are submitted to the DAR Council must be submitted via ABM.

5225.103 (DFARS 225.103) Exceptions.

(b) *Nonavailability.*

(ii)(D) The HCA is the agency head's designee, without power of redesignation, to make and approve determinations for acquisitions estimated to exceed \$2 million.

SUBPART 5225.2—BUY AMERICAN ACT—CONSTRUCTION MATERIALS

5225.202 (DFARS 225.202) Exceptions.

(a)(1) *Impracticable or inconsistent with the public interest.* The Commander, NAVFACENGCOM is delegated authority to make this determination.

(2) *Nonavailability.* Authority to make nonavailability determinations which would otherwise require approval of the head of the agency is delegated to the Commander, NAVFACENGCOM.

SUBPART 5225.4—TRADE AGREEMENTS

5225.401 (DFARS 225.401) Exceptions.

(b)(i) Submit requests to USD(AT&L)DP through ABM in the form of a determination and findings.

(ii)(B) Submit a copy of the justification to USD(AT&L)DP through ABM.

5225.403 (DFARS 225.403) Trade Agreements Act.

(c)(iii) Submit requests for national interest waivers to the USD(AT&L)DP through ABM in the form of a determination and findings.

SUBPART 5225.8—INTERNATIONAL AGREEMENTS AND COORDINATION

5225.802 (DFARS 225.802) Procedures.

5225.802-71 (DFARS 225.802-71) End User Certificates (EUC)

ASN(RDA) may authorize the execution of Category I and II EUCs. Category III EUCs require a waiver by the USD(AT&L). All requests for EUCs shall be forwarded via the Navy International Programs office for review to determine the proper category and to recommend approval.

5225.802(90) Procedures for acquisitions that can be satisfied only by European sources.

(a) Naval activities having requirements that can be satisfied only by European sources will normally forward their requisitions to Naval Regional Contracting Center (NRCC), Naples for procurements in Southern Europe, the Mediterranean, Africa and the Middle East or NRCC Detachment, London for procurements in Northern Europe, including the United Kingdom and Iceland. This does not relieve activities from complying with current Balance of Payments directives. NRCC Detachment London is the focal point within Europe for liaison relative to the furnishing of audit services by the European governments.

(b) *Exceptions.* The following are exceptions to paragraph (1) above:

(i) Contracts for complete vessels or aircraft.

(ii) Contracts for equipment requiring servicing by representatives of foreign companies.

(iii) Contracts within an activity's authorized purchase authority when material is readily available overseas (outside CONUS).

(iv) Other specific exceptions as may be granted by NAVSUPSYSCOM.

(3) Contracting Officers utilizing any of the above exceptions, prior to negotiating with a United Kingdom supplier, should contact the NRCC Detachment, London for assistance and support.

5225.871 North Atlantic Treaty Organization (NATO) cooperative projects.

5225.871-4 (DFARS 225.871-4) Statutory waivers.

(c) Requests for waivers shall be submitted through ABM.

SUBPART 5225.70—AUTHORIZATION ACTS, APPROPRIATIONS ACTS, AND OTHER STATUTORY RESTRICTIONS ON FOREIGN ACQUISITION

5225.7002 Restrictions on food, clothing, fabrics, specialty metals, and hand or measuring tools.

5225.7002-2 (DFARS 225.7002-2) Exceptions.

(a) The HCA is the Secretary's designee.

PART 5235

RESEARCH AND DEVELOPMENT CONTRACTING

5235.006 (DFARS 235.006) Contracting methods and contract type.

(b)(i), (ii) and (iii). Notifications and requests for USD(AT&L) approval are to be submitted to ABM for processing and signature by ASN(RD&A).

5235.015 Contracts for research with educational institutions and nonprofit organizations.

5235.015-70 (DFARS 235.015-70) Special use allowances for research facilities acquired by educational institutions.

(b) *Policy.*

(3) Contracts providing for a special use allowance for acquisitions or construction of research facilities shall specify:

(i) that plans, specifications and major changes thereto shall be subject to approval by the Government;

(ii) that the work shall be subject to approval by the Government for conformity to approved plans and specifications; and

(iii) that the NAVFACENGCOM shall be the authorized representative of the sponsoring contracting activity for such purposes.

(4) Except as otherwise directed or authorized in the approval, the contract may also provide for up to a 15% increase in the amount subject to the special use allowance to cover changes in the work or any difference between estimated and actual cost of the work. Any such increase may be made subject to the approval of the sponsoring contracting activity. If more than a 15% increase is required, the further approval of the HCA is required.

5235.070 (DFARS 235.070) Indemnification against unusually hazardous risks.

5235.070-1 (DFARS 235.070-1) Indemnification under research and development contracts.

(a) The authority to approve the inclusion of the appropriate DFARS contract clause (DFARS 252.235-7000 for fixed price and DFARS 252.235-7001 for cost reimbursement) and definition in a research or development contract, together with the authority to approve the amount of any payment under 10 U.S.C. 2354(c) is delegated to ABM. The authority to approve the source of the funds out of which any such payment is made is delegated to the Deputy Comptroller, Department of the Navy, and to one assistant designated by the Deputy Comptroller for such purpose.

PART 5236

CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

SUBPART 5236.2—SPECIAL ASPECTS OF CONTRACTING FOR CONSTRUCTION

5236.270 (DFARS 236.270) Expediting construction contracts.

Where additional costs are to be incurred, NAVFACENGCOM is responsible for obtaining required agency head approval and certification.

SUBPART 5236.6—ARCHITECT-ENGINEER SERVICES

5236.601 (DFARS 236.601) Policy.

(1) NAVFACENGCOM is responsible for any required Congressional notification.

5245.303 Providing material.

5245.303-1 Policy.

(S-90) *DoN implementation.* Decisions to provide GP shall be fully documented in the contract file. Any decision to provide readily available commercial items as GP requires detailed analysis and written justification supporting the decision and approved by the commander of the requiring activity, or a designated representative as being in the best interest of the Government.

5245.306 Providing special tooling.

(90) *Acquiring special tooling.* Contracting officers should obtain written verification from a qualified technical evaluator that contractor-proposed special tooling is properly classified. If general purpose plant equipment is improperly fabricated or acquired as special tooling, such equipment should be reclassified as facilities, direct cost should be disallowed, and any inappropriate profit should be recouped.

5245.311 Providing Government property by transfer.

(1) *Policy.* Government property shall not be transferred between contracts unless approval for retention is obtained, adequate consideration is received and proper identification is maintained.

(2) Contracts may not authorize the transfer of property from one contract to another without specific identification of the type, quantity and acquisition cost of the property which is authorized for transfer to the current contract.

SUBPART 5245.4—CONTRACTOR USE AND RENTAL OF GOVERNMENT PROPERTY

5245.403 Rental—Use and Charges clause.

(a) The CCO is the agency head's designee for making the required determination.

5245.405 (DFARS 245.405) Contracts with foreign governments or international organizations.

(3)(ii) Submit requests to the Director, Defense Security Assistance Agency (DSAA) via ABM.

5245.407 (DFARS 245.407) Non-Government use of plant equipment.

(a)(ii) HCAs are delegated approval authority. As noted at DFARS 245.407(a)(ii), any redelegation requires the approval of the Office of the Deputy Under Secretary of Defense (Industrial Affairs and Installations).

SUBPART 5245.5—MANAGEMENT OF GOVERNMENT PROPERTY IN THE POSSESSION OF CONTRACTORS

5245.505 Records and reports of Government property.

5245.505-14 Reports of Government property.

(c)(S-90) Property Administrators will forward all DD Forms 1662 reporting Government property to the Office of the Assistant Secretary of the Navy (Research, Development and Acquisition) Acquisition and Business Management - Policy & Resources (GP) [abbr. OASN(RDA)ABM - PR (GP)], 2211 South Clark Place, Arlington, VA 22202-3738, not later than 15 November each year for input into the DoD Contract Property Management System. Block 20 of the DD 1662 must be fully and legibly completed.

(d)(S-91) The DD Forms 1662, Line 17, column e, "Balance End of Period" should reflect the acquisition cost of all GFM in the warehouse and in production on 30 September of the reporting year.

5245.508 Physical inventories.

5245.508-1 Inventories upon termination or completion.

(a) *General.* Under DoN contracts, the property administrator may not waive the requirement for a physical inventory upon contract completion except to the extent provided in subparagraph (b) below. At least 60 days prior to contract completion (*i.e.*, the date when all items are scheduled for delivery to the government), the contractor should submit the following to the property administrator:

(i) A listing of all government property required to support contractual follow-on requirements or other known requirements, including spares and mobilization readiness requirements. This listing shall identify the category, quantity, and acquisition cost of such property, *i.e.*, IPE, OPE, ST, STE, military property, and material.

(ii) Justification for retention of any Government property not currently in use (see FAR 45.102).

(iii) Upon receipt of the required contract submission, the property administrator shall:

(A) Review and verify the contractor's stated government property requirements with the assistance, as required, from other technical specialists.

(B) Forward a copy of the contractor's follow-on or other related contract requirements list and retention justification statement, together with appropriate findings and recommendation, to the cognizant contracting officer.

(b) *Exception.* When it is anticipated that government property will be required for use on follow-on or other related contracts under major ongoing DoN programs, the property administrator may authorize the contractor to use a recent physical inventory, *i.e.*, one conducted within the previous 12 months, or a sampling-type inventory to meet the physical inventory requirement provided that:

(i) The contractor has conducted previous physical inventories in accordance with the type and frequency approved by the property administrator;

(ii) The contractor's inventory plan provides for use of valid sampling techniques;

(iii) Experience has established the adequacy of the contractor's property inventory and accounting controls; and

(iv) The degree of discrepancies disclosed during previous physical inventories does not exceed the risk the government is willing to accept, e.g., 10 percent (or a 90 percent confidence level).

(90) Final decisions with respect to transfer of government property to follow-on or other contracts should be made by the cognizant contracting officer within 90 days after the receipt of the contractor's list and justification statement. If transfer approval or other disposition instructions are not received by the property administrator at the end of 90 days, the property administrator should issue follow-up correspondence which states, "Your failure to respond within 30 days of the date of this follow-on inquiry will be interpreted to mean the government property in question should be disposed of in accordance with FAR/DFARS/NAPS 45.603/245.603."

(91) The automatic transfer by the contractor of record balances of government property to follow-on or other related contracts in lieu of preparing an inventory list upon contract completion is prohibited.

SUBPART 5245.6—REPORTING, REDISTRIBUTION, AND DISPOSAL OF CONTRACTOR INVENTORY

5245.603 Disposal methods.

The priorities identified at FAR 45.603 are applicable only to contractor-acquired material. These priorities have no applicability to special tooling, special test equipment, facilities, or military property.

5245.606 Inventory schedules.

5245.606-3 Acceptance.

(a) DD Form 1640, Request for Plant Clearance, should be used to initiate referral actions, applicable to subcontractors outside the assigned area of the CAO cognizant of the prime contractor.

5245.608 Screening of contractor inventory.

5245.608-1 General.

(b) To accomplish the screening requirements within the prescribed time periods, the following procedures should be employed:

(1) Upon receipt of inventory schedules in acceptable form, the plant clearance office should provide an original to the requiring activity and copies to

DoN inventory managers, the contracting activity, and Naval activities other than inventory managers who have potential requirements for the property.

(2) Provide retention and redistribution requirements of the owning Commands, Offices and Bureaus (requiring activities), inventory managers, contracting activities and other Naval activities directly to the reporting office during this period.

5245.608-5 Special items screening.

(a) *Special test equipment with standard components.* Notwithstanding the provision of FAR 45.608-5(a), the final approval for contractor retention of standard components of special test equipment (STE) or for the transfer of industrial plant equipment items, which are components of STE, shall be made by the contracting officer in lieu of the ACO.

5245.612 Removal and storage.

5245.612-3 Special storage at the Government's expense.

(a) Prior to authorizing retention of items in storage the contracting officer should ensure that a retention plan has been developed. Retention plans will include the justification for storage, a detailed description of the property to be stored, storage costs, location, planned period of storage, and source of funds for storage.

(d)(S-90) The use of "no-costs" or no direct cost storage agreements is prohibited.

SUBPART 5245.70—APPOINTMENT OF PROPERTY ADMINISTRATORS AND PLANT CLEARANCE OFFICERS

5245.7002 (DFARS 245.7002) Duties and responsibilities of plant clearance officers.

A copy of the written appointment shall be furnished to the Headquarters Command of the CAO.

SUBPART 5245.73—SALE OF SURPLUS CONTRACTOR INVENTORY

5245.7302 (DFARS 245.7302) Competitive Sales.

5245.7302-5 (DFARS 245.7302-5) Mailing lists.

(c)(S-90) Sales invitations should be furnished to the supplier, the producer of each item being sold, and the:

- (1) Contractor or subcontractor;
- (2) Accountable contractor, if other than (2) above;
- (3) Reporting activity; and
- (4) Headquarters Command of the CAO.