

days before the meeting in which the commenter desires to be heard. Requests for comment opportunity, and written comments, should be sent to Greg Lipscomb at the address under **FOR FURTHER INFORMATION CONTACT**, stated above.

Agenda

The planned agenda for the first meeting is as follows:

1. Introductions and Welcoming Remarks
2. Nomination of Facilitator
3. Introduction of Committee Members
4. Committee Charter and Related Matters
5. Organizational Protocols
6. Agreement on "Consensus"
7. Work Program and Documentation
8. Organization of Work and Working Groups
9. Meeting Schedule and Locations
10. Agenda for Next Meeting
11. Other Business.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95-7379 Filed 3-24-95; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Part 45 and 52

Federal Acquisition Regulation; Government Property Class Deviation

AGENCY: Department of Defense.

ACTION: Notice of proposed class deviation.

SUMMARY: The Department of Defense (DoD) is proposing a class deviation from the Federal Acquisition Regulation (FAR) record keeping and physical inventory requirements for Special Tooling, Special Test Equipment and Plant Equipment with an acquisition cost of \$1,500 or less. The proposed class deviation will apply to defense contractors, holding them accountable for such property, but relieving them of the requirement to track it, while revisions to the FAR are being drafted. **DATES:** Comments on the proposed class deviation should be submitted in writing at the address shown below on or before May 26, 1995 to be considered in the formulation of the final class deviation.

ADDRESSES: Interested parties should submit written comments to: Mrs. Linda W. Neilson, DAR Council, Attn: IMD 3D139, PDUSD(A&T)DP/DAR, 3062 Defense Pentagon, Washington DC 20301-3062. FAX (703) 602-0350.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena Moy, telephone (703) 604-5385.

SUPPLEMENTARY INFORMATION:

A. Background

On September 16, 1994, (59 FR 47583) the Director of Defense Procurement, Department of Defense, announced an initiative to rewrite FAR part 45, Government Property, to make it easier to understand and to minimize the burdens imposed on contractors and the government. The Director of Defense Procurement is providing a forum for an exchange of ideas and information with government and industry personnel by holding public meetings, soliciting public comments, and publishing notices of the public meetings in the **Federal Register**. Interested parties were invited to provide written suggestions or comments in the notice of public hearing dated September 16, 1994 (59 FR 47583). Twenty-two commentors provided approximately 500 comments, including a recommendation that relief from the FAR tracking requirements for government property under \$1,500 would reduce administrative burdens and provide cost savings.

In order to capture any savings quickly, DoD is proposing a class deviation from current FAR record keeping and physical inventory requirements for Special Tooling, Special Test Equipment and Plant Equipment with an acquisition cost of \$1,500 or less. The proposed class deviation was included as a discussion topic at the public meeting held on January 24, 1995 (60 FR 2370). DoD proposes to deviate from certain FAR requirements as follows:

Part 45—Government Property

45.101 Definitions.

- Deviation authorizes the use of two additional definitions:

"Low Value Property," as used in this part, means Government property in the classes of special tooling, special test equipment, and plant equipment with an acquisition cost of \$1,500 or less. Specifically excluded from this definition are agency-peculiar property, material, real property, and sensitive property.

"Sensitive Property," as used in this part, means Government property for which the theft, loss, or misplacement could be potentially dangerous to the public health or safety, or which must be subject to exceptional physical security, protection, control, maintenance, or accountability, including, but not limited to, hazardous property, precious metals, arms,

ammunition, explosives, and classified property.

45.504 Contractor's liability.

- Deviation authorizes contractors to report loss, damage, or destruction of items of low value property at contract termination or completion instead of when the facts become known.

45.505 Records and reports of Government property.

- Deviation authorizes the exemption of low value property from the requirement of 45.505(g) for contractor property control systems to contain a system or technique to locate any item of Government property within a reasonable period of time. As a result, periodic physical inventories need not be performed for low value property.

45.505-1 Basic information.

- Deviation excludes low value property from the present requirement for contractors to maintain current location for each item of government property. Contractor's property control records for each item of low value property in the contractor's possession must provide the basic information listed in FAR paragraphs 45.505-1 (a)(1) through (a)(7). However, contractors will not be required to update changes in location of each item of low value property which occur after establishment of the official government property record. This exemption does not apply to "sensitive property."

45.508 Physical inventories.

- With the exception of inventories conducted upon termination or completion, the deviation authorizes an exemption for low value property from the requirements of FAR 45.508 for contractors to periodically physically inventory all Government property (except materials issued from stock for manufacturing, research, design, or other services required by the contract) in their possession or control and to cause subcontractors to do likewise. In addition, the deviation requires a contractor whose property control system is disapproved to perform a physical inventory and report all loss, damage, or destruction of Government property prior to system reapproval.

Part 52—Solicitation Provisions and Contract Clauses

52.245-2 Government Property (Fixed-Price Contracts) (DEC 1989).

- Deviation authorizes the substitution of the following paragraph (c)(2) for paragraph (c)(2) of the basic clause. The substitute paragraph (c)(2) makes it clear that title to items of

Government property lost, damaged, or destroyed and replaced under the risk of loss provisions of the clause, vests in the Government:

(c)(2) All Government-furnished property, property acquired by the Contractor, or all property replaced by the Contractor under the risk of loss provisions of this clause, title to which vests in the Government under this paragraph (collectively referred to as "Government property"), are subject to the provisions of this clause. However, special tooling accountable to this contract is subject to the provisions of the Special Tooling clause and is not subject to the provisions of this clause. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.

52.245-2 Government Property (Fixed Price Contracts) (Alternate I) (APR 1984).

- Deviation authorizes substitution of "Limited risk of loss" for the title of paragraph (g), and substitution of the following subparagraph (g)(2), which requires contractors to assume the risk of, and be responsible for, any loss, damage, or destruction of low value property, with the exception of reasonable wear and tear:

(g)(2) The Contractor assumes the risk of and shall be responsible for, any loss or destruction of, or damage to low value property upon its delivery to the Contractor or upon passage of title to the Government under paragraph (c) of this clause. However, the Contractor is not responsible for reasonable wear and tear of low value property or for low value property properly consumed in performing this contract. With respect to all other Government property, the Contractor shall not be liable for loss or destruction of, or damage to, the Government property provided under this contract (or, if an educational or nonprofit organization, for expenses incidental to such loss, destruction, or damage), except as provided in subparagraphs (3) and (4) below.

- Deviation authorizes substitution of the following subparagraph (g)(6), which allows contractors to report loss, damage, or destruction of items of low value property at contract termination or completion:

(g)(6) Upon loss or destruction of, or damage to, Government property provided under this contract, (with the exception of low value property for which loss, damage, or destruction is reported at contract termination or

completion), the Contractor shall so notify the Contracting Officer and shall communicate with the loss and salvage organization, if any, designated by the Contracting Officer. With the assistance of any such organization, the Contractor shall take all reasonable action to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the affected Government property in the best possible order, and furnish to the Contracting Officer as statement of—

(i) The lost, destroyed, or damaged Government property;

(ii) The time and origin of the loss, destruction, or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

- Deviation authorizes substitution of the following subparagraph (g)(8), which makes the cost of insurance due to assumption of risk of loss for low value property an allowable cost pursuant to FAR 31.205-19:

(g)(8) The Contractor represents that it is not including in the price and agrees it will not hereafter include in any price to the Government any charge or reserve for insurance (including any self-insurance fund or reserve) covering loss or destruction of, or damage to, Government property, except:

(i) to the extent that the Government may have expressly required the Contractor to carry such insurance under another provision of this contract; or

(ii) low value property.

52.245-5 Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts) (JAN 1986).

- Deviation authorizes substitution of the following paragraphs (c)(2) and (c)(3), which clarify that title to items of government property lost, damaged, or destroyed and replaced under the risk of loss provisions of the clause vests in the government:

(c)(2) Title to all property purchased by the Contractor for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract or for which the Contractor is responsible to replace under the risk of loss provisions of this clause shall pass to and vest in the Government upon the vendor's delivery of such property.

(c)(3) Title to all other property, the cost of which is reimbursable to the Contractor, or for which the Contractor is responsible to replace under the risk of loss provisions of this clause shall

pass to and vest in the Government upon—

(i) Issuance of the property for use in contract performance;

(ii) Commencement of processing of the property for use in contract performance; or

(iii) Reimbursement of the cost of the property by the Government, whichever occurs first.

- Deviation authorizes substitution of "Risk of loss" for the title of paragraph (g), and substitution of the following subparagraph (g)(1), which requires contractors to assume the risk of, and be responsible for, any loss, damage, or destruction of low value property, with the exception of reasonable wear and tear:

(g)(1) The Contractor assumes the risk of, shall be responsible for, and shall not be entitled to reimbursement as an allowable cost for any loss or destruction of, or damage to low value property upon its delivery to the contractor or upon passage of title to the Government under paragraph (c) of this clause. However, the contractor is not responsible for reasonable wear and tear of low value property or for low value property properly consumed in performing this contract. With respect to all other Government property, the Contractor shall not be liable for loss or destruction of, or damage to, the Government property provided under this Contract or for expenses incidental to such loss, destruction, or damage, except as provided in subparagraphs (2) and (3) below.

- Deviation authorizes substitution of the following subparagraph (g)(5), which allows contractors to report loss, damage, or destruction of items of low value property at contract termination or completion:

(g)(5) Upon loss or destruction of, or damage to, Government property provided under this contract, with the exception of low value property for which loss, damage, or destruction is reported at contract termination or completion, the Contractor shall so notify the Contracting Officer and shall communicate with the loss and salvage organization, if any, designated by the Contracting Officer. With the assistance of any such organization, the Contractor shall take all reasonable action to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the affected Government property in the best possible order, and furnish to the Contracting Officer a statement of—

(i) The lost, destroyed, or damaged Government property;

(ii) The time and origin of the loss, destruction, or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

- Deviation authorizes substitution of the following subparagraph (g)(7), which makes the cost of insurance due to DoD contractors' assumption of risk of loss for low value property an allowable cost pursuant to FAR 31.205-19:

(g)(7) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance or of any reserve covering risk of loss or destruction of, or damage to, Government property, except:

(i) to the extent that the Government may have expressly required the Contractor to carry such insurance under another provision of this contract; or

(ii) low value property.

52.245-7 Government Property (Consolidated Facilities) (APR 1984).

- Deviation authorizes substitution of the following subparagraphs (d)(2) and (d)(4), which clarify that title to items of Government property lost, damaged, or destroyed, and replaced under the risk of loss provisions of this clause vests in the Government:

(d)(2) Title to all facilities and components shall pass to and vest in the Government upon delivery by the vendor of all such items purchased by the Contractor for which it is entitled to be reimbursed as a direct item of cost under this contract or for which the Contractor is responsible to replace under the risk of loss provisions specified in the clause at FAR 52.245-8, Liability for the Facilities.

(d)(4) Title to other property, the cost of which is reimbursable to the Contractor under this contract or for which the Contractor is responsible to replace under the risk of loss provisions specified in the clause at FAR 52.245-8, Liability for the Facilities, shall pass to and vest in the Government upon—

(i) Issuance of the property for use in performing this contract;

(ii) Commencement of processing or use of the property in performing this contract; or

(iii) Reimbursement of the cost of the property by the Government, whichever occurs first.

52.245-8 Liability for the Facilities (APR 1984).

- Deviation authorizes substitution of the following paragraph (b), which

requires contractors to assume risk of, and be responsible for, any loss, damage, or destruction of low value property, except for reasonable wear and tear:

(b) The Contractor assumes the risk of, shall be responsible for, and shall not be entitled to reimbursement as an allowable cost for any loss or destruction of, or damage to low value property upon its delivery to the contractor or upon passage of title to the Government as specified in the clause at FAR 52.245-7, Government Property (Consolidated Facilities), FAR 52.245-10, Government Property (Facilities Acquisition) or FAR 52.245-11, Government Property (Facilities Use). However, the Contractor is not responsible for reasonable wear and tear of low value property or for low value property properly consumed in performing this contract. With respect to all other Government property, the Contractor shall not be liable for any loss or destruction of, or damage to, the facilities, or for expenses incidental to such loss, destruction, or damage, except as provided in this clause.

- Deviation authorizes substitution of the following paragraph (f), which makes the cost of insurance due to assumption of risk of loss for low value property an allowable cost pursuant to FAR 31.205-19:

(f) Unless expressly directed in writing by the Contracting Officer, the Contractor shall not include in the price or cost under any contract with the Government the cost of insurance (including self-insurance) against any form of loss, destruction, or damage to the facilities. However, the Contractor may include the price or cost of such insurance against any form of loss, destruction, or damage to low value property. Any insurance required under this clause shall be in such form, in such amounts, for such periods of time, and with such insurers (including the Contractor as self-insurer in appropriate circumstances) as the Contracting Officer shall require or approve. Such insurance shall provide for 30 days advance notice to the Contracting Officer, in the event of cancellation or material change in the policy coverage on the part of the insurer. A certificate of insurance or a certified copy of such insurance shall be deposited promptly with the Contracting Officer. The Contractor shall, not less than 30 days before the expiration of such insurance, deliver to the Contracting Officer a certificate of insurance or a certified copy of each renewal policy. The insurance shall be in the name of the United States of America (Agency Name), the Contractor, and such other

interested parties as the Contracting Officer shall approve, and shall contain a loss payable clause reading substantially as follows: Any loss under this policy shall be adjusted with (Contractor) and the proceeds, at the direction of the Government, shall be paid to (Contractor). Proceeds not paid to (Contractor) shall be paid to the office designated by the Contracting Officer.

- Deviation authorizes substitution of the following introductory text for paragraph (g), which allows contractors to report loss, damage, or destruction of items of low value property only at contract termination or completion:

(g) With the exception of low value property for which the loss, damage, or destruction is required to be reported at contract termination or completion, when there is any loss or destruction of, or damage to, the facilities—

52.245-11 Government Property (Facilities Use) (APR 1984).

- Deviation authorizes insertion of the following new subparagraph (c)(2), which clarifies that title to items of Government property lost, damaged, or destroyed, and replaced under the risk of loss provisions of this clause vests in the Government. The deviation also authorizes substitution of the numbering of the existing subparagraphs (c)(2), (c)(3), and (c)(4) as (c)(3), (c)(4), and (c)(5), respectively:

(c)(2) Title to facilities for which the Contractor is responsible to replace under the risk of loss provisions specified in the clause at FAR 52.245-8, Liability for the Facilities, shall pass to and vest in the Government upon the vendor's delivery of such facilities. Title to all other facilities for which the Contractor is responsible to replace under the risk of loss provisions specified in the clause at FAR 52.245-8 shall pass to and vest in the Government upon—

(i) Issuance of the property for use in contract performance;

(ii) Commencement of processing of the property for use in contract performance; or

(iii) Reimbursement of the cost of the property by the Government, whichever occurs first.

List of Subjects in 48 CFR Parts 45 and 52

Government procurement.

Claudia L. Naugle,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 95-7340 Filed 3-24-95; 8:45 am]

BILLING CODE 5000-04-M