

45.104

management systems that are separate from a contractor's established procedures, practices, and systems used to account for and manage contractor-owned property.

[72 FR 27385, May 15, 2007, as amended at 72 FR 63045, Nov. 7, 2007]

45.104 Responsibility and liability for Government property.

(a) Generally, contractors are not held liable for loss of Government property under the following types of contracts:

- (1) Cost-reimbursement contracts.
- (2) Time-and-material contracts.
- (3) Labor-hour contracts.
- (4) Fixed-price contracts awarded on the basis of submission of certified cost or pricing data.

(b) The contracting officer may revoke the Government's assumption of risk when the property administrator determines that the contractor's property management practices are non-compliant with contract requirements.

(c) A prime contractor that provides Government property to a subcontractor shall not be relieved of any responsibility to the Government that the prime contractor may have under the terms of the prime contract.

(d) With respect to loss of Government property, the contracting officer, in consultation with the property administrator, shall determine—

(1) The extent, if any, of contractor liability based upon the amount of damages corresponding to the associated property loss; and

(2) The appropriate form and method of Government recovery (may include repair, replacement, or other restitution).

(e) Any monies received as financial restitution shall be credited to the Treasury of the United States as miscellaneous receipts, unless otherwise authorized by statute (31 U.S.C. 3302(b)).

[72 FR 27385, May 15, 2007, as amended at 75 FR 38680, July 2, 2010; 75 FR 53150, Aug. 30, 2010; 77 FR 12942, Mar. 2, 2012]

45.105 Contractors' property management system compliance.

(a) The agency responsible for contract administration shall conduct an analysis of the contractor's property

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management policies, procedures, practices, and systems. This analysis shall be accomplished as frequently as conditions warrant, in accordance with agency procedures.

(b) The property administrator shall notify the contractor in writing when the contractor's property management system does not comply with contractual requirements, shall request prompt correction of deficiencies, and shall request from the contractor a corrective action plan, including a schedule for correction of the deficiencies. If the contractor does not correct the deficiencies in accordance with the schedule, the contracting officer shall notify the contractor, in writing, that failure to take the required corrective action(s) may result in—

(1) Revocation of the Government's assumption of risk for loss of Government property; and/or

(2) The exercise of other rights or remedies available to the contracting officer.

(c) If the contractor fails to take the required corrective action(s) in response to the notification provided by the contracting officer in accordance with paragraph (b) of this section, the contracting officer shall notify the contractor in writing of any Government decision to apply the remedies described in paragraphs (b)(1) and (b)(2) of this section.

(d) When the property administrator determines that a reported case of loss of Government property is a risk assumed by the Government, the property administrator shall notify the contractor in writing that it is granted relief of stewardship responsibility and liability in accordance with 52.245-1(f)(1)(vii). Where the property administrator determines that the risk of loss of Government property is not assumed by the Government, the property administrator shall request that the contracting officer hold the contractor responsible and liable.

[72 FR 27385, May 15, 2007, as amended at 75 FR 38680, July 2, 2010; 77 FR 12942, Mar. 2, 2012]

45.106 Transferring accountability.

Government property shall be transferred from one contract to another only when firm requirements exist