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(2) When auditor reports or other notifications question cost or consider them unallowable, the contracting officer shall follow up such reports and resolve all such cost issues promptly by determining, through discussions with the contractor and/or auditor within six months of the audit report date, or date of receipt if a non-Federal audit. One of the following courses of action shall be pursued:

(i) Accept and implement audit recommendations as submitted.

(ii) Accept the principle of the audit recommendation but reject the cost questioned amount.

(iii) Reject audit findings and recommendations.

(3) When implementing the accepted course of action, the contracting officer shall—

(i) Hold discussions with the auditor and contractor as appropriate.

(ii) Issue a notice in writing advising the contractor of the government's intent to disallow the cost questioned, if the contracting officer agrees with the auditor concerning the questioned costs.

(iii) Negotiate a mutual settlement of questioned costs if they are agreed with in principle but there is a difference of opinion as to a proper amount.

(iv) Negotiate a mutual settlement of questioned costs if the auditor recommendations are acceptable to the contracting officer but the contractor does not accept the finding or disallowance.

(v) Issue a final decision of the contracting officer disallowing the questionable cost where differences cannot be resolved, advising of the contractor's right to appeal the decision, and advising the procedure to be followed if it is decided to make such an appeal.

(vi) Initiate immediate recoupment actions for all disallowed cost owed the government by:

(A) Requesting the contractor to provide a credit adjustment (offset) against amounts billed the government on the next or future invoice(s) if such shall be submitted under a contract for which the disallowed cost applies.

(B) Deducting (offset) the disallowed cost from the next or future invoice(s) submitted under the contract; if the

contractor provides no adjustment under the contract for which the disallowed cost applies; provided such reduction is deemed appropriate.

(C) Advising the contractor that a refund shall be directly payable to the government in situations where there are insufficient payments owed by the government to effect recovery via (A) or (B) above or an offset is otherwise inappropriate.

(vii) Promptly notify the appropriate finance office of refunds directly payable to the government to ensure proper billing and follow-up action for collection.

[49 FR 12026, Mar. 28, 1984, as amended at 59 FR 9107, Feb. 25, 1994; 75 FR 29458, May 26, 2010]

## PART 945—GOVERNMENT PROPERTY

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AUTHORITY: 42 U.S.C. 7101, *et seq.*; 50 U.S.C. 2401, *et seq.*

SOURCE: 77 FR 74387, Dec. 14, 2012, unless otherwise noted.

### 945.000 Scope of part.

This part and 48 CFR part 45 are not applicable to the management of property by management and operating contractors, unless otherwise stated.

## Subpart 945.1—General

### 945.101 Definitions.

*Capital equipment*, as used in this part, means personal property items having anticipated service life in excess of two years, regardless of type of funding, and having the potential for maintaining their integrity as capital items, i.e., not expendable due to use; dollar threshold for capital equipment is as established by the DOE Financial Management Handbook.

*Personal property*, as used in this part, means property of any kind or interest therein, except real property, records of the Federal Government, and nuclear and special source materials, atomic weapons, and by-product materials.

*Sensitive property*, as used in this part, has the meaning contained in 48 CFR 45.101.

### 945.102-70 Reporting of contractor-held property.

The Head of the Contracting Activity may be required to report the following information to the Personal Property Policy Division, within the Headquarters procurement organization:

(a) Name and address of each contractor with DOE personal property in their possession, or in the possession of their subcontractors (do not include grantees, cooperative agreements, interagency agreements, or agreements with state or local governments).

(b) Contract number of each DOE contract with Government personal property.

(c) Date contractor's property management system was approved and by whom (DOE office, Defense Contract

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Management Command, or the Office of Naval Research).

(d) Date of most current appraisal of contractor's property management system, who conducted the appraisal, and status of the system (satisfactory or unsatisfactory).

(e) Total acquisition value of DOE personal property for each DOE contract administered by the contracting activity.

### 945.102-71 Maintenance of records.

The contracting activity shall maintain records of approvals and reviews of contractors' property management systems, the dollar value of DOE property as reported on the most recent semi-annual financial report, and records on property administration delegations to other Government agencies.

### 945.102-72 Reporting of contractor sensitive property inventory.

The contractor must develop and maintain a list of personal property items considered sensitive. Sensitive Items List must be approved by the PA/OPMO annually.

### 945.170 Providing Government property to contractors.

#### 945.170-1 Policy.

The DOE has established specific policies concerning special nuclear material requirements needed under DOE contracts for fabricating end items using special nuclear material, and for conversion or scrap recovery of special nuclear material. *Special nuclear material* means uranium enriched in the isotopes U233 or U235, and/or plutonium, other than PU238. The policies to be followed are:

(a) Special nuclear material will be furnished by the DOE for fixed-price contracts and subcontracts, at any tier, which call for the production of special nuclear products, including fabrication and conversion, for Government use. (The contractor or subcontractor must have the appropriate license or licenses to receive the special nuclear material. The Nuclear Regulatory Commission is the licensing agency.)

(b) Contracts and subcontracts for fabrication of end items using special

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nuclear material generally shall be of the fixed-price type. Cost-type contracts or subcontracts for fabrication shall be used only with the approval of the Head of the Contracting Activity. This approval authority shall not be further delegated.

(c) Contracts and subcontracts for conversion or scrap recovery of special nuclear material shall be of a fixed-price type, except as otherwise approved by the Head of the Contracting Activity.

### Subparts 945.3-945.4 [Reserved]

### Subpart 945.5—Support Government Property Administration

#### 945.570 Management of Government property in the possession of contractors.

##### 945.570-1 Acquisition of motor vehicles.

(a) GSA Interagency Fleet Management System (GSA-IFMS) is the first source of supply for providing motor vehicles to contractors; however, contracting officer approval is required for contractors to utilize this service.

(b) Prior approval of GSA must be obtained before—

(1) Fixed-price contractors can use the GSA-IFMS;

(2) DOE-owned motor vehicles can be furnished to any contractor in an area served by GSA-IFMS; and

(3) A contractor can commercially lease a motor vehicle for more than 60 days after GSA has determined that it cannot provide the required vehicle.

(c) GSA has the responsibility for acquisition of motor vehicles for Government agencies. All requisitions shall be processed via GSA AutoChoice in accordance with 41 CFR 101-26.501.

(d) Contractors shall submit all motor vehicle requirements to the contracting officer for approval.

(e) The acquisition of sedans and station wagons is limited to small, subcompact, and compact vehicles which meet Government fuel economy standards. The acquisition of light trucks is limited to those vehicles which meet the current fuel economy standards set by Executive Orders 12003 and 12375.

(f) Cost reimbursement contractors may be authorized by the contracting officer to utilize GSA Federal Supply Schedule 751, Leasing of Automobiles and Light Trucks, for short term rentals not to exceed 60 days, and are required to utilize available GSA consolidated leasing programs for long term (60 continuous days or longer) commercial leasing of passenger vehicles and light trucks.

(g) The Personal Property Policy Division, within the Headquarters procurement organization shall certify all requisitions prior to submittal to GSA for the following:

(1) The acquisition of sedans and station wagons.

(2) The lease (60 continuous days or longer) of any passenger automobile.

(3) The acquisition or lease (60 continuous days or longer) of light trucks less than 8,500 GVWR.

(h) Purchase requisitions for other motor vehicles may be submitted directly to GSA when approved by the contracting officer.

(i) Contractors shall thoroughly examine motor vehicles acquired under a GSA contract for defects. Any defect shall be reported promptly to GSA, and repairs shall be made under terms of the warranty.

##### 945.570-2 Disposition of motor vehicles.

(a) The contractor shall dispose of DOE-owned motor vehicles as directed by the contracting officer.

(b) DOE-owned motor vehicles may be disposed of as exchange/sale items when directed by the contracting officer; however, a designated DOE official must execute the Title Transfer forms (SF-97).

##### 945.570-3 Reporting motor vehicle data.

(a) Contractors conducting motor vehicle operations shall forward annually to the contracting officer their plan for acquisition of motor vehicles for the next fiscal year for review, approval and submittal to DOE Headquarters. This plan shall conform to the fuel efficiency standards for motor vehicles for the applicable fiscal year, as established by Executive Orders 12003 and 12375 and as implemented by GSA and

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current DOE directives. Additional guidance for the preparation of the plan will be issued by the contracting officer, as required.

(b) Contractors operating DOE-owned, GSA leased and/or commercially leased (for 60 continuous days or longer) motor vehicles shall prepare and electronically submit the following annual year-end reports to the contracting officer:

- (1) Annual Motor Vehicle Fleet Report.
- (2) Federal Fleet Report (41 CFR 102-34.335).

### Subpart 945.6—Reporting, Reutilization, and Disposal

#### 945.602 Reutilization of Government property.

##### 945.602-3 Screening.

(a) *Standard screening.* (1) Prior to reporting excess property to GSA, all reportable property, as identified in Federal Management Regulations 41 CFR 102-36.220, shall be reported for centralized screening in the DOE Energy Asset Disposal System (EADS). Reportable excess personal property will be screened internally via the EADS system for a period of 12 days.

(i) EADS requires the inclusion of a six character Activity Address Code (AAC) which identifies the reporting contractor. The AAC will be assigned by DOE Headquarters upon receipt of a formal letter of authorization signed by the DOE contracting officer.

(ii) Requests to establish, extend or delete an Activity Address Code shall be submitted by the contracting officer to the Office of Property Management, Personal Property Policy Division, within the Headquarters procurement organization.

(b) *Special screening requirements.* (2) *Special test equipment with commercial components.*—Prior to reporting the property to GSA in accordance with 48 CFR 45.604-1 (a), (b) and (c), the property shall be reported and screened within DOE in accordance with 945.602-3(a) and 945.602-70.

(3) *Printing equipment.* All printing equipment excess to requirements shall be reported to the Office of Administration at Headquarters.

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#### 945.602-70 Local screening.

Local screening shall be done using EADS.

#### 945.603 Abandonment, destruction or donation of excess personal property.

See 945.670 for DOE disposal methods.

#### 945.604 Disposal of surplus property.

##### 945.604-1 Disposal methods.

(b)(3) *Recovering precious metals.* Contractors generating contractor inventory containing precious metals or possessing precious metals excess to their programmatic requirements, shall identify and promptly report such items to the contracting officer for review, approval and reporting to the DOE Business Center for Precious Metals Sales & Recovery (Business Center). This includes Gold, Silver, Platinum, Rhodium, Palladium, Iridium, Osmium, and Ruthenium in any form, shape, concentration, or purity. Report all RCRA contaminated precious metals, but not radiological contaminated. The Y-12 NNSA Site Office is responsible for maintaining the DOE Business Center. Precious metals scrap will be reported to the DOE Business Center.

(d) See 945.670 for DOE disposal methods.

#### 945.670 DOE disposal methods.

##### 945.670-1 Plant clearance function.

If the plant clearance function has not been formally delegated to another Federal agency, the contracting officer shall assume all responsibilities of the plant clearance officer identified in 48 CFR 45.606-3.

##### 945.670-2 Disposal of radioactively contaminated personal property.

Special procedures regarding the disposal of radioactively contaminated property may be found at 41 CFR 109-45.50 and 45.51, or its successor.

##### 945.670-3 Waiver of screening requirements.

(a) The Director of the Personal Property Policy Division, within the Headquarters procurement organization may authorize exceptions from screening requirements.

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(b) A request to the Director of the Personal Property Policy Division, within the Headquarters procurement organization for the waiver of screening requirements must be submitted by the Procurement Directors with a justification setting forth the compelling circumstances warranting the exception.

### **945.671 Contractor inventory in foreign countries.**

Contractor inventory located in foreign countries will be utilized and disposed of in accordance with 41 CFR 109-43.5 and 45.41, or its successor and 48 CFR 45.302.

## **PART 947—TRANSPORTATION**

### **Subpart 947.70—Foreign Travel**

Sec.

947.7000 [Reserved]

947.7001 Policy.

947.7002 Contract clause.

AUTHORITY: 42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

SOURCE: 49 FR 12038, Mar. 28, 1984, unless otherwise noted.

### **Subpart 947.70—Foreign Travel**

SOURCE: 65 FR 81007, Dec. 22, 2000, unless otherwise noted.

#### **947.7000 [Reserved]**

#### **947.7001 Policy.**

Contractor foreign travel shall be conducted pursuant to the requirements contained in DOE Order 551.1C, or its successor, Official Foreign Travel, or any subsequent version of the order in effect at the time of award.

[65 FR 81007, Dec. 22, 2000, as amended at 74 FR 36368, July 22, 2009]

#### **947.7002 Contract clause.**

When foreign travel may be required under the contract, the contracting officer shall insert the clause at 952.247-70, Foreign Travel.

[65 FR 81007, Dec. 22, 2000, as amended at 74 FR 36368, July 22, 2009]

## **PART 949—TERMINATION OF CONTRACTS**

### **Subpart 949.1—General Principles**

Sec.

949.101 Authorities and responsibilities.

949.106 Fraud or other criminal conduct.

949.111 Review of proposed settlements.

### **Subpart 949.5 [Reserved]**

AUTHORITY: 42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

SOURCE: 49 FR 12038, Mar. 28, 1984, unless otherwise noted.

### **Subpart 949.1—General Principles**

#### **949.101 Authorities and responsibilities.**

The Senior Procurement Executive shall be notified prior to taking any action to terminate (a) contracts for the operation of Government-owned facilities, (b) any prime contract or subcontract in excess of \$10 million, and (c) any contract the termination of which is likely to provoke unusual interest.

[49 FR 12038, Mar. 28, 1984, as amended at 75 FR 29458, May 26, 2010]

#### **949.106 Fraud or other criminal conduct.**

Any evidence of fraud or other criminal conduct in connection with the settlement of a contract termination shall be reported in accordance with 909.406.

#### **949.111 Review of proposed settlements.**

(a) The Heads of Contracting Activities shall establish settlement review boards for the review of each termination settlement or determination of amount due under the termination clause of a contract or approval or ratification of a subcontract settlement when the action involves \$50,000 or more.

(b) Settlement review boards may be established for actions below \$50,000 when considered desirable by the Head of the Contracting Activity or when specifically requested by the contracting officer.