



Asset Leadership Network (ALN)

Response to GSA Request

Retrospective Review of GSA Regulations

ALN Retrospective Response Regarding the Management of Government Property under the FAR

Review of GSA Personal Property Policy Regulations
GSA Office of Governmentwide Policy

March 27, 2015

The U.S. Government has entrusted a significant fiduciary responsibility to its supply chain base by furnishing hundreds of billions of dollars of property to contractors. Contractual requirements for management of Government property are outlined in FAR Parts 45 and 52.245-1, as well as additional Agency-specific regulations such as the DFARS. The Government and its contractors incur millions of dollars of cost each year in property administration activities to achieve compliance with these regulations. Despite efforts in the last decade to streamline the contractual requirements for Government-furnished property, FAR 52.245-1 and similar regulations- as well as oversight activities to ensure compliance- have continued to proliferate, increasing costs for both Government and contractors. Asset Management professionals have invested considerable resources in developing voluntary consensus standards (VCS) over the last 15 years as a way to reduce regulatory burden and cost. The Government can achieve a significant cost savings by more fully embracing the use of these VCS in lieu of prescriptive contractual and regulatory requirements.

The Department of Defense (DoD) contracted with the management consulting firm Coopers and Lybrand in 1994 to assess the impact of DoD's acquisition regulations and oversight requirements on its contractors. The study concluded that these compliance cost drivers increase the price that DoD pays for its goods and services by 18%.¹ Property Administration was identified as the 10th largest contributor to this increase, creating a 2.7% cost premium.² Assuming that a similar cost increase could be extrapolated across other Government agencies, a reduction in Property Administration regulatory burden could represent a significant cost savings for the Government and contractors.

The foundation for reducing the regulatory burden and achieving these cost savings exists today in the form of a proven body of VCS for property and asset management. The ASTM E53 Committee on Asset Management has released 28 international standards since 2001, and the ISO 55000 Asset Management standard was released in 2014. U.S. Government and contractor Asset Management professionals participated in the development of these standards, and many contractors have begun to implement

¹ United States General Accounting Office, Report to Congressional Committees, "Acquisition Reform- Efforts to Reduce the Cost to Manage and Oversee DoD Contracts" page 1. April, 1996. Retrieved at: <http://www.gao.gov/archive/1996/ns96106.pdf>

² Coopers and Lybrand, LLP, "The DoD Regulatory Cost Premium: A Quantitative Assessment" pages 29-29a and 60a. December, 1994. Retrieved at: <http://oai.dtic.mil/oai/oai?verb=getRecord&metadataPrefix=html&identifier=ADA295799>



them in their processes and procedures where possible. The most recent Government Property clause at FAR 52.245-1 allows the use of voluntary consensus standards, but the wording in the clause provides ambiguity that inhibits their practical adoption and implementation:

*The contractor **may** employ customary commercial practices, voluntary consensus standards, or industry leading practices and standards that provide effective and efficient Government property management that are **necessary and appropriate for the performance of this contract (except where inconsistent with law or regulation)**.* (emphasis added).³

The clause then continues to list processes for managing Government property in great detail- 52.245-1 is the longest clause in the FAR at over 5,000 words long.⁴ The conditional wording of the clause permitting standards use, coupled with the lengthy regulatory language that follows, has the practical effect of proscribing the use of any standard that does not, in effect, parrot the regulation.

This is contrary to the spirit, if not the letter, of OMB Circular A-119, which requires that all Federal Agencies must use VCS instead of developing Government-unique standards in their procurement and regulatory activities, except where inconsistent with law or otherwise impractical.⁵ One of the stated goals of the Government in using VCS is to eliminate the cost to the Government of developing its own standards and decrease the cost of goods procured and the burden of complying with agency regulation. The relative lack of acceptance and adoption of VCS by the Government in the realm of property and asset management is continuing to drive these costs.

The ALN advocates the adoption and implementation of a standards-based approach to Government Property management in lieu of the current regulatory framework. Contractors should be required to establish and maintain a system of policies, processes and management systems for the acquisition, use and disposal of Government property in accordance with VCS. Much of today's Government property administration prioritizes compliance with "process" over the goals that asset management systems should seek to achieve, that is, an effective system of internal controls to maximize the value of Government assets and, most importantly, to achieve the objectives of the program or mission for which those assets are deployed. The Government has an opportunity to realize significant benefits by encouraging contractors to adopt a standards-based asset management system where the benefits exceed the cost of operations. Contractors should be given the latitude and the mandate to focus on what matters most- maximizing the value of assets for mission success.

Another area we believe needs to be addressed is the role of Government auditors for FAR 45 purposes, these are known as "property administrators" (PAs). The GAO Yellow Book goes in detail as to the role of auditors, particularly the need of independence. Now the assigned PA generally takes on three simultaneously roles: an auditor, an advisor and a contracting officer's representative. Based upon the authority of the GAO Yellow Book, the property management regulations should be

³ Federal Acquisition Regulation, 52.245-1(b) *Property Management* (1)(2012).

⁴ United States Congressional Record, "In Honor of the 30th Anniversary of the Federal Acquisition Regulation," Hon. Darrell E. Issa, U.S. House of Representatives, April 1, 2014.

⁵ Office of Management and Budget, Circular No. A-119, February 10, 1998. Retrieved at: http://www.whitehouse.gov/omb/circulars_a119/



change to be consistent with these requirements. Auditors are not supposed to audit their own work, when they advise and approve contractor's processes and policy they are auditing their own work.

The Asset Leadership Network (ALN) is a not-for-profit organization that is the foremost organization created for the advancement of asset management across all industries, markets and sectors. ALN focuses on identifying universal guiding principles and best practices that affect the management and value realization of assets.

Respectfully Submitted

Asset Leadership Network

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