Contractor Acquired Property (CAP)

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Defense Procurement and Acquisition Policy (DPAP)
Why CAP is important

- Property acquired using public funds must be appropriately titled (owned)
- Property titled to (owned by) the public (Government) must be administered, managed and controlled to protect the public’s interests
Definitions

**Government Furnished Property (GFP)** – is defined as property in the possession of or acquired by the Government and subsequently furnished to the Contractor for performance of a contract.

It includes items like spares and property furnished for repair, maintenance, overhaul, or modification. It can be items taken or requisitioned from Government inventory or purchased by the Government specifically to be provided on a contract.

GFP also includes contractor-acquired property if the contractor-acquired property is a deliverable under a cost contract that has been accepted by the Government for continued use under that contract or a future contract.
Definitions

Contractor-Acquired Property (CAP) - is property purchased or fabricated by a contractor for use on a contract to which the Government has title.

Provide – means to furnish property (GFP) or to acquire property (CAP)
CAP and GFP Similarities

- Both are considered PROVIDED to the contractor in accordance with FAR 45.102(b)
- Both are titled to (owned by) the Public (Government)
- Both are managed for stewardship purposes by the contractor
- To protect the Public’s interests in the property both require Property Administration
- To assure the Public obtains the full use and/or highest value possible for contractor property (that which is no longer required for performance), both require Plant Clearance
  - Plant clearance reporting or specific instructions are required if the property is no longer needed for contract performance
Difference Between CAP and GFP

- **GFP**
  - Was held by the Government, either physically or legally, and transferred to a contractor;
  - Was acquired by the contractor and considered delivered to the Government when left in place for further work;
  - Was acquired or produced by another contractor, delivered to the Government, and transferred to the holding contract; or,
    - (Physical receipt by the Government is not required)
  - Was acquired as CAP under a previous iteration of a contract with the same contractor and left in place through a transfer to the current contract.
  - GFP cannot be “repurchased” by the contractor, except as part of a competitive bidding process during plant clearance, even if it was CAP under a previous contract.
  - **May only be dispositioned through Plant Clearance**
    - Plant clearance reporting or specific instructions are required if the property is no longer needed for contract performance
**CAP**

- Hasn’t been formally delivered to the Government (not inspected and accepted)
- Is managed by the contractor according to the Government Property clause at **FAR 52.245-1**
- May be “repurchased” by the contractor for full cost or returned to a vendor less a reasonable restock fee.
An Illustration

Deliverable

CAP
FAR 45.107(a) requires use of the Government Property Clause (FAR 52.245-1) in:

- Fixed price contracts which provide property (GFP or cost clins)
- Cost type and Time and Material Contracts
- Labor hour contracts with GFP
- Part 12 contracts when the value of Government property exceeds the simplified acquisition threshold
Title to Government Furnished Property
General Title Provisions

- Contained in Government Property Clause
- Title to Government Furnished Property always remains with the Government in accordance with FAR 52.245-1(e)(1)
- Title vests in the Government for all property acquired or fabricated by the Contractor in accordance with the financing provisions or other specific requirements for passage of title in the contract.
- Title is not changed by incorporation of Government property into property owned by the contractor.
Under fixed price type contracts, in the absence of financing provisions or other specific requirements for passage of title in the contract, the Contractor retains title to all property acquired by the Contractor for use on the contract, except for property identified as a deliverable end item.
Title in Fixed Price Contracts with Financing Provisions

- Title to property under FP contracts with financing provisions is generally limited to parts, material, expendable tools, and work in progress.
- Special tooling and special test equipment must be required as a deliverable elsewhere in the contract.
- This allows the Government to recover items that are incomplete and for which funds have been expended in an instance when the contractor defaults or fails to deliver the end item.
- Property under these clauses is not considered to be subject to Part 45 or the Government Property clause at FAR 52.245-1
All directly charged items are titled to the Government

Other items are titled to the Government when they are:

» Reasonable, allocable and allowable
» Issued from stock
» Processed in production of the deliverable
» Reimbursed by the Government (Whichever occurs first)
Cost Lines on FP Contracts

- Title to cost reimbursable line items on Fixed Price contracts is the same as title under a cost contract.
FAR 52.245-1 Government Property

**Title under Cost-Reimbursement or Time-and-Material Contracts or Cost-Reimbursable contract line items under Fixed-Price contracts.**

(i) 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 shall pass to and vest in the Government upon the vendor's delivery of such property.

(ii) Title to all other property, the cost of which is reimbursable to the Contractor, shall pass to and vest in the Government upon—

(A) Issuance of the property for use in contract performance;  
(B) Commencement of processing of the property for use in contract performance; or  
(C) Reimbursement of the cost of the property by the Government, whichever occurs first.

**52.245-1 Must be in all Cost Reimbursable and T&M contracts**
What Happens to CAP

- May be consumed in production of the deliverable
- May be credited to the contract and charged to a different contract if needed on the succeeding contract
  - (Reasonable, Allocable, and Allowable test)
- May be repurchased by the contractor
  - At full cost; or,
  - Returned to suppliers less reasonable restock costs
- If not consumed, repurchased or delivered, must be reported to the Government for plant clearance whenever no longer required for performance
  - Either during or at the completion of the contract
- May be delivered
- May be provided to succeeding contracts as GFP after inspection and acceptance and delivery
Delivery of CAP
How CAP is Delivered

- **PGI 245.402-71** Delivery of contractor-acquired property.
  - (1)(i) When delivery of contractor-acquired property is required, the contracting officer shall direct that the delivery be accomplished by contract line item, except as described in paragraph (1)(ii) of this section.
  
  - (2) Each contract line item of contractor-acquired property shall include the following information:

```
Contractor-Acquired Property Delivery Contract Line Item

<table>
<thead>
<tr>
<th>CLIN</th>
<th>Item Description/ Nomenclature</th>
<th>Type Designation</th>
<th>NSN</th>
<th>PIN</th>
<th>Quantity</th>
<th>Unit of Measure</th>
<th>Serial Number (UII)*</th>
<th>Original Unit Acquisition Cost</th>
<th>Date Placed in Service by the Contractor</th>
</tr>
</thead>
<tbody>
<tr>
<td>x</td>
<td>x</td>
<td>As required</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>If known</td>
<td>x</td>
<td>x</td>
</tr>
</tbody>
</table>
```

*Contractor-acquired property items shall be marked as required by DFARS clause 252.245-7001.*
Once Contract Line Items are created, CAP will be delivered as any other deliverable line item, using WAWF iRAPT in accordance with:

- **DFARS 252.232-7003** (b) Except as provided in paragraph (c) of this clause, the Contractor shall submit payment requests and receiving reports using WAWF, in one of the following electronic formats that WAWF accepts: Electronic Data Interchange, Secure File Transfer Protocol, or World Wide Web input. Information regarding WAWF is available on the Internet at [https://wawf.eb.mil/](https://wawf.eb.mil/).

- **DFARS 252.246-7000** "(b) Contractor submission of the material inspection and receiving information required by Appendix F of the Defense FAR Supplement by using the Wide Area WorkFlow (WAWF) electronic form (see paragraph (b) of the clause at [252.232-7003](http://www.acq.osd.mil/dpap/dars/dfars/html/current/252232.htm)) fulfills the requirement for a material inspection and receiving report (DD Form 250)."

- **DFARS Appendix F** (b) The use of the DD Form 250 is on an exception basis (see [DFARS 232.7003](http://www.acq.osd.mil/dpap/dars/dfars/html/current/232_70.htm)) because use of the WAWF RR is now required by most DoD contracts.
(1)(ii) In some circumstances, such as contractor-performed logistics support or performance-based logistics support contracts, contract deliverables consist of non-hardware items, such as operational readiness rate goals or mean-time-between failures of a system. In order to meet these deliverables, contractors are required to provide certain property items to the Government. In such cases, the contract does not include specific delivery line items requiring formal delivery of the property. By extension, the Government will not have title to the property at the time contractor provides the property. Rather, in such cases, title to the property passes to the Government—upon Government acceptance (as defined in FAR 46.101) of the items at the destination stated in the contract. Contracting officers shall ensure that the contract—

(A) Clearly defines how and when acceptance will be performed; and

(B) Includes applicable requirements for quality assurance, part marking, anti-counterfeiting, or other requirement for the delivery of the property.
For more information

GFP Policy

Training, Procedures, Tools


www.dodprocurementtoolbox.com
Training Certificates

Please send your request to Niki Sollinger:
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Please include the date of the webinar and if you want to be on the GFP Training email distribution list.
Any Questions?

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