

Further NPRM of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E9-14757 Filed 6-22-09; 8:45 am]

BILLING CODE 6712-01-P

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1545 and 1552

[EPA-HQ-OARM-2008-0817; FRL-8906-4]

EPAAR Prescription and Clauses—Government Property—Contract Property Administration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) amends the EPA Acquisition Regulation (EPAAR) to update policy, procedures, and contract clauses. The proposed rule consolidates the EPAAR physical property clauses (Decontamination, Fabrication, and Government Property), re-designates the prescription number in the data clause, and updates the roles and responsibilities of the contractor, DCMA and CPC.

DATES: Comments must be received on or before July 23, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OARM-2008-0817, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

- *E-mail:* docket.oei@epa.gov.

- *Fax:* (202) 566-1753.

- *Mail:* EPA-HQ-OARM-2008-0817, OEI Docket, Environmental Protection Agency, 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of three (3) copies.

- *Hand Delivery:* EPA Docket Center-Attention OEI Docket, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OARM-2008-0817. EPA's policy is that all comments received will be included in the public docket without change, and may be

made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket, and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment, and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov>, or in hard copy at the Government Property-Contract Property Administration Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1752. This Docket Facility is open from 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Iris Redmon, Policy, Training and Oversight

Division, Acquisition, Policy and Training Service Center (3802R), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone number:* 202-564-2644; *fax number:* 202-565-2475; *e-mail address:* redmon.iris@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

1. *Submitting CBI.* Do not submit this information to EPA through <http://www.regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI, and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket.

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. Background

The Federal Acquisition Regulation (FAR) on Government Property was revised June 14, 2007. This revision removed the previous restriction on providing government property for contract performance, and gave

contracting officers more flexibility in their determination to provide property. Accordingly, in order to assist EPA contracting officers involved in providing Government Property and contract property administration, it is necessary to amend the EPAAR to incorporate guidance on their use.

The administrative amendments are necessary for two reasons: First, align Agency Government Property policy and procedures with the Federal Acquisition Regulation Part 45, Government Property revision; and second, encourage contractors to use commercial standards for managing and recording property.

III. Proposed Rule

This proposed rule would make the following administrative changes to the government property clause prescription and clauses: (1) Re-designate the EPAAR prescription number 1545.106 as 1545.107 and change the prescription reference in 1552.245–71 Government Furnished Data; (2) consolidate the information in 1552.245–73 Government Property (GP) and 1552.245–72–Fabrication or Acquisition of Nonexpendable Property with 1552.245–70 Decontamination; (3) change the name of 1552.245–70 from Decontamination to Government Property; and (4) remove 1545.106 prescription, 1552.245–73 Government Property, and 1552.245–72 Fabrication or Acquisition of Nonexpendable Property.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This proposed rule is not a significant regulatory action for the purposes of Executive Order 12866; therefore, no review is required by the Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB).

B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not contain information requirements that require the approval of OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act

or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impact of today's proposed rule on small entities, "small entity" is defined as: (1) A small business that meets the definition of a small business found in the Small Business Act and codified at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise which is independently owned and operated, and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, because the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed rule on small entities" 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. Since providing government property will be available equally to large and small entities, this rule will not have a significant economic impact on small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess their regulatory actions on State, local, and Tribal governments, and the private sector. This proposed rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in one year. Any private sector costs for this action relate to paperwork requirements and associated expenditures that are far below the level established for UMRA applicability. Thus, this proposed rule is not subject

to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled, "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications, and preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposed rule would amend the EPAAR to provide guidance on providing government property and make other administrative changes. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications." "Policies that have Tribal implications" are defined in the Executive Order to include regulations that have "substantial direct effects on

one or more Indian Tribes, on the relationship between the Federal Government and the Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.”

This proposed rule does not have Tribal implications. It will not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communication between EPA and Tribal governments, EPA specifically solicits additional comment on this proposed rule from Tribal officials.

G. Executive Order 13045

Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be “economically significant” as defined under Executive Order 12866; and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and it does not involve decisions on environmental health or safety risk.

H. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities, unless to do so would be inconsistent with applicable law, or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to

provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rule will use the voluntary standards and/or industry leading practices and standards for Government property management except where inconsistent with law or regulation, as stated in FAR 52.245–1(b).

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This proposed rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use” (66 FR 28335 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

List of Subjects in 48 CFR Parts 1545 and 1552

Environmental protection,
Government procurement.

Dated: May 6, 2009.

John C. Gherardini III,
Acting Director, Office of Acquisition Management.

Therefore, 48 CFR Chapter 15 is proposed to be amended as set forth below:

PART 1545—GOVERNMENT PROPERTY

1. The authority citation for part 1545 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

Subpart 1545.1—General

2. Redesignate section 1545.106 as section 1545.107, and revise the newly redesignated section to read as follows.

§ 1545.107 Government property clauses.

(a) The Contracting Officer shall insert the contract clause at 1552.245–70:

(1) When it is anticipated that a Contractor will use Government-furnished or Contractor-acquired property in the cleanup of hazardous material as defined in Federal Standard No. 313, or, the toxic chemicals listed 40 CFR 372.65, in the environment.

(2) In all cost-type solicitations and contracts regardless of whether Government property is initially provided, and in all fixed-price solicitations and contracts whenever Government-furnished property is provided.

(b) The Contracting Officer shall insert the contract clause at 1552.245–

71, Government-Furnished Data, in any contract in which the Government is to furnish data to the Contractor. The data to be provided shall be identified in the clause.

PART 1552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. The authority citation for part 1552 continues to read as follows:

Authority: 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); and 41 U.S.C. 418b.

Subpart 1552.2—Texts of Provisions and Clauses

5. Revise section 1552.245–70 to read as follows:

§ 1552.245–70 Government property.

As prescribed in 1545.107(a), insert a clause substantially the same as follows:

Government Property

(a) The contractor shall not fabricate or acquire, on behalf of the Government, either directly or indirectly through a subcontract, any item of property without prior written approval from the Contracting Officer. If the Contracting Officer authorizes the contractor to acquire and/or fabricate equipment for use in the performance of this contract, the equipment shall be subject to the provisions of the “Government Property” clause and listed on the contract via contract modification.

(b) If the Government provides item(s) of Government property to the contractor for use in the performance of this contract, this property shall be used and maintained by the contractor in accordance with the provisions of the “Government Property” clause.

The “EPA Contract Property Administration Requirements” provided below apply to this contract.

U.S. Environmental Protection Agency Contract Property Administration Requirements (CPAR)

1. *Purpose.* This document sets forth the requirements for the U.S. Environmental Protection Agency (EPA) contractors performing Government property management responsibilities under EPA contracts. These requirements supplement those contained in the Government Property clause(s) and Part 45 Government Property of the Federal Acquisition Regulation (FAR).

2. Contract Property Administration (CPAR).

a. *EPA Delegation.* EPA delegates all contract property administration to the EPA Contract Property Coordinator

(CPC). The delegations apply to all EPA contracts issued with or that have the potential to receive, purchase or acquire Government Property or include the Government Property clauses. In addition to administering all contract property, the CPC provides technical expertise and assistance to the Contracting Officer (CO) and Contracting Officer Technical Representative (COTR) relative to Government Property.

b. *DCMA Re-delegation.* The CPC may re-delegate contract property management oversight to the Defense Contract Management Agency (DCMA) for property administration and plant clearance. Upon acceptance of the delegation, DCMA will provide notification to the contractor identifying the assigned property administrator (PA) and plant clearance officer (PLCO). The DCMA PA is available to the contractor for assistance in all matters of property administration.

Notwithstanding the delegation, as necessary, the contractor may contact the EPA CO. In the event of a disagreement between the contractor and the DCMA PA, the contractor should seek resolution from the CO. Unless otherwise directed in the contract, or this document, all originals of written information or reports, except direct correspondence between the contractor and the DCMA PA, relative to Government property, should be forwarded to the administrative CO assigned to this contract and the CPC.

c. *Disagreements.* Notwithstanding the delegation (s), as necessary, the contractor may contact the CO. In the event of a disagreement between the contractor and the PA or the CPC the contractor should seek resolution from the CO.

3. *Requests for Government Property.*

In accordance with FAR 45.102, the contractor shall furnish all property required for performing Government contracts. If a contractor believes that Government property is required for performance of the contract, the contractor shall submit a written request to the CO. At a minimum, the request shall contain the following elements:

- Contract number for which the property is required.
- An item(s) description, quantity and estimated cost.
- Certification that no like contractor property exists which could be utilized.
- A detailed description of the task-related purpose of the property.
- Explanation of negative impact if property is not provided by the Government.
- Lease versus purchase analysis shall be furnished with the request to acquire

property on behalf of the Government, with the exception of requests for material purchases. The contractor may not proceed with acquisition of property on behalf of the Government until receipt of written authorization from the Contracting Officer.

4. *Transfer of Government Property.*

When the contractor receives Government Property (GP), the contractor should receive, from the transferor, (either EPA or another contractor) all of the applicable data elements (Attachment 1 of this clause) needed to maintain the required records. Prior to signing an acceptance document for the property, the receiving contractor should perform a complete inventory of the property. Responsibility, as well as accountability, passes with the signed acceptance, in accordance with FAR 45.106. When, at the written direction of the CO, via contract modification, the contractor transfers Government Property to another contractor, or another Agency, the contractor shall provide the applicable data elements (Attachment 1 of this clause).

5. *Records of Government Property.*

a. In accordance with FAR 52.245-1, the contractor shall create and maintain records of all Government property, regardless of value, including property provided to and in the possession of a subcontractor. Material provided by the Government or acquired by the contractor and billed as a direct charge to the contract is Government property and records must be established as such.

b. The Contractor shall identify all Superfund property and designate it as such both on the item and on the Government property record. If it is not practicable to tag the item, the contractor shall write the ID number on a tag, card or other entity that may be kept with the item or in a file.

c. Support documentation used for posting entries to the property record shall provide complete, current and auditable data. Entries shall be posted to the record in a timely manner following an action.

d. For Government vehicles, in addition to the data elements required by EPA, the contractor shall also comply with the General Services Administration (GSA) and Department of Energy (DOE) record and report requirements supplied with all EPA provided motor vehicles. If the above requirements were not provided with the vehicle, the contractor shall notify the designated CPC and the Fleet Manager.

e. When Government property is disclosed to be in the management and/or control of the contractor but not

provided under any contract, the contractor shall record and report the property in accordance with FAR 52.245-1.

6. *Inventories of Government Property.*

The contractor shall conduct a complete physical inventory of EPA property at least once per year. The contractor shall report the results of the inventory, including any discrepancies, to the CO. Reconciliation of discrepancies shall be completed in accordance with the schedule negotiated with the CO. See section 10 herein, Contract Closeout, for information on final inventories.

7. *Reports of Government Property.*

EPA requires an annual summary report, for each contract, by contract number, of Government property in the contractor's possession. The annual summary is due as of September 30th of each year, and upon contract termination or expiration.

a. For each classification listed on the EPA Property Report form, with the exception of material, the contractor shall provide the total acquisition cost and total quantity. If there are zero items in a classification, or if there is an ending balance of zero, the classification must be listed with zeros in the quantity and acquisition cost columns.

b. For material, the contractor shall provide the total acquisition cost only.

c. Property classified as Plant Equipment, Superfund and Special Test Equipment must be reported on two separate lines. The first line shall include the total acquisition cost and quantity of all items or systems with a unit acquisition cost of \$25,000 or more. The second line shall include the total acquisition cost and quantity of all items with a unit acquisition cost of less than \$25,000.

d. For items comprising a system, which is defined as "a group of interacting items functioning as a complex whole," the contractor may maintain the record as a system noting all components of the system under the main component or maintain individual records for each item. However, for the annual report of Government property the components must be reported as a system with one total dollar amount for the system, if that system total is \$25,000 or more.

e. The reports are to be received at EPA by the CPC by October 5th of each year.

f. Distribution shall be as follows:

Original to: CPC.

One copy: CO.

g. Contractors are required to comply with GSA and DOE special reporting requirements for motor vehicles. A statement of these requirements will be

provided by the EPA Facility Management and Services Division (FMSD) concurrent with receipt of each vehicle.

h. The contractor shall provide detailed reports on an as-needed basis, as may be requested by the CO or the CPC.

8. *Disposition of Government Property.* The disposition process is composed of three distinct phases: Identification, reporting, and final disposition.

a. *Identification.* The disposition process begins with the contractor identifying Government property that is no longer required for contract performance. Effective contract property management systems provide for identification of excess as it occurs. Once Government property has been determined to be excess to the accountable contract, it must be screened against the contractor's other EPA contracts for further use. If the property may be reutilized, the contractor shall notify the CO in writing. Government property will be transferred via contract modifications to other contracts only when the COs on both the current contract and the receiving contract authorize the transfer.

b. *Reporting.*

(i) *EPA.* Government property shall be reported in accordance with FAR 52.245-1. The Standard Form, SF 1428, Inventory Disposal Schedule, provides the format for reporting excess Government property. Instructions for completing and when to use the form may be found at FAR 52.245-1 (j). Forward the completed SF 1428 to the CPC. The SF 1428 is available at <http://www.arnet.gov/far/current/html/FormsStandard54.html>. Superfund property must contain a Superfund notification and the following language must be displayed on the form: "Note to CO: Reimbursement to the EPA Superfund is required."

(ii) *DCMA.* If the EPA contract has been re-delegated to DCMA, the excess items will be entered into the Plant Clearance Automated Reutilization Screening System (PCARSS). Access and information pertaining to this system may be addressed to the DCMA Plant Clearance Officer (PLCO).

c. *Disposition Instructions.*

(i) *Retention.* When Government property is identified as excess, the CO may direct the contractor in writing to retain all or part of the excess Government Property under the current contract for possible future requirements.

(ii) *Return to EPA.* When Government property is identified as excess, the CO may direct the contractor in writing to

return those items to EPA inventory. The contractor shall ship/deliver the property in accordance with the instructions provided by the CO.

(iii) *Transfer.* When Government property is identified as excess, the CO may direct the contractor in writing to transfer the property to another EPA contractor. The contractor shall transfer the property by shipping it in accordance with the instructions provided by the CO. To effect transfer of accountability, the contractor shall provide the recipient of the property with the applicable data elements set forth in Attachment 1 of this clause.

(iv) *Sale.* If GSA or the DCMA PLCO conducts a sale of the excess Government property, the contractor shall allow prospective bidders access to property offered for sale.

(v) *Abandonment.* Abandoned property must be disposed of in a manner that does not endanger the health and safety of the public.

If the contract is delegated to DCMA and the contractor has input EPA property into the PCARSS system, the EPA Property Utilization Officer (PUO) shall notify the CO. The CO shall notify the contractor in writing of those items EPA would like to retain, have returned or transferred to another EPA contractor. The contractor shall notify the DCMA PLCO and request withdrawal of those items from the inventory schedule.

The contractor shall update the Government property record to indicate the disposition of the item and to close the record. The contractor shall also obtain either a signed receipt or proof of shipment from the recipient.

The contractor shall notify the CO when all actions pertaining to disposition have been completed. The contractor shall complete an EPA Property report with changes, to include supporting documentation of completed disposition actions and submit it to the CPC.

9. *Decontamination.* In addition to the requirements of the "Government Property" clause and prior to performing disposition of any EPA Government Property, the contractor shall certify in writing that the property is free from contamination by any hazardous or toxic substances.

10. *Contract Closeout.* The contractor shall complete a physical inventory of all Government property at contract completion and the results, including any discrepancies, shall be reported to the CO. If the contract is delegated to DCMA, the physical inventory report will be submitted to the EPA CO and a copy submitted to the DCMA PA.

In the case of a terminated contract, the contractor shall comply with the

inventory requirements set forth in the applicable termination clause. The results of the inventory, as well as a detailed inventory listing, must be forwarded to the CO and if delegated, a copy to the DCMA PA.

In order to expedite the disposal process, contractors may be required to, or may elect to submit to the CPC, an inventory schedule for disposal purposes up to six (6) months prior to contract completion. If such an inventory schedule is prepared, the contractor must indicate the earliest date that each item may be disposed. The contractor shall update all property records to show disposal action. The contractor shall notify the CO, and, if delegated, the DCMA PA, in writing, when all work has been completed under the contract and all Government property accountable to the contract has been disposed. The contractor shall complete a FINAL EPA Property report with all supporting documentation to the CPC.

Attachment 1

Required Data Element—In addition to the requirements of FAR 52.245-1(f)(vi), Reports of Government Property, the contractor is required to maintain, and report the following data elements for EPA Government property (all elements are not applicable to material):

Name and address of the administrative Contracting Officer.

Name of the contractor representative.

Business type.

Name and address of the contract property coordinator.

Superfund (Yes/No).

No. of Subcontractor/Alternate Locations.

Note: For items comprising a system which is defined as "a group of interacting items functioning as a complex whole," the contractor may maintain the record as a system noting all components of the system under the main component or maintain individual records for each item. However, for the Annual Report of Government Property, the components must be reported as a system with one total dollar amount for the system, if that system total is \$25,000 or more.

(End of clause.)

6. Revise section 1552.245-71 to read as follows:

\$ 1552.245-71 Government-furnished data.

As prescribed in 1545.107 (b), insert the following contract clause in any contract that the Government is to furnish the Contractor data. Identify in the clause the data to be provided.

Government-Furnished Data

(a) The Government shall deliver to the Contractor the Government-furnished data described in the contract. If the data, suitable for its intended use, is not delivered to the Contractor, the Contracting Officer shall equitably adjust affected provisions of this contract in accordance with the "Changes" clause when:

(1) The Contractor submits a timely written request for an equitable adjustment; and

(2) The facts warrant an equitable adjustment.

(b) Title to Government-furnished data shall remain in the Government.

(c) The Contractor shall use the Government-furnished data only in connection with this contract.

(d) The following data will be furnished to the Contractor on or about the time indicated:

(End of clause.)

**§ 1552.245–72 and § 1552.245–73
[Removed]**

7. Remove sections 1552.245–72 and 1552.245–73.

[FR Doc. E9–14460 Filed 6–22–09; 8:45 am]

BILLING CODE 6560–50–P