



DCMA Manual 2501-12

Contract Property Loss

Office of Primary Responsibility	Contract Maintenance Capability
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Incorporates	DCMA-INST 124, "Contract Property Management," February 1, 2013, as amended
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Purpose: This issuance, in accordance with the authority in DoD Directive 5105.64 and DoD Instruction 5000.64:

- Implements policy established in DCMA-INST 2501, "Contract Maintenance"
- Assigns roles and responsibilities, and provides procedures for the administration and oversight of loss of Government contract property

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SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY. This issuance applies to all DCMA activities unless higher-level regulations, policy, guidance, or agreements take precedence. This issuance applies to DCMA organizational elements, Military Departments, Defense Agencies, and DoD Field Activities that choose to delegate contract oversight responsibilities to DCMA. DCMA Special Programs (DCMAS) will comply with this requirement to the extent commensurate with the security requirements of the administered classified contracts. Where DCMAS is required to deviate from this manual, the intent of DCMA policy must be followed. Any exceptions or deviations from Agency policy will be documented in a Supplemental Instruction (SI) maintained by the DCMAS Directorate.

1.2. POLICY. It is DCMA policy to ensure incidents of property loss are appropriately evaluated, determinations of contractor responsibility and liability are made, contractor corrective actions are implemented to prevent recurrence, and that loss cases are tracked and documented throughout the process of determining a contractor's responsibility and liability.

SECTION 2: RESPONSIBILITIES

2.1. DIRECTOR, PROPERTY GROUP AND CONTRACT MANAGEMENT OFFICE CONTRACTS DIRECTORS AND DIRECTOR, DCMA SPECIAL PROGRAMS PROPERTY CENTER (DCMAS). The Director, Property Group and Contract Management Office Contracts Directors, and DCMAS must:

- a. Manage resources to meet mission requirements.
- b. Ensure that the tools and abilities necessary to adjudicate property loss cases are available.

2.2. PROPERTY GROUP FIRST LEVEL SUPERVISOR (FLS). The FLS must:

- a. Implement internal controls to ensure property loss investigations are performed in accordance with this manual and within the designated timeframes.
- b. Ensure workload acceptance issues are addressed, and all cases are assigned to the appropriate Property Administrator (PA).

2.3. PROPERTY ADMINISTRATOR (PA). The PA must:

- a. Evaluate contractor responsibility and liability for property loss.
- b. Thoroughly document liability determinations and recommendations to hold liable.
- c. Ensure the causes of property loss are identified and effective corrective action is taken to prevent recurrence.
- d. Maintain data integrity.
- e. Request technical assistance from other functional specialists, when needed.
- f. Accept and request support delegations, as necessary and appropriate.

2.4. ADMINISTRATIVE CONTRACTING OFFICER (ACO). The ACO must evaluate PA and Ground Flight Representative (GFR) recommendations to hold contractors responsible and liable for property loss. If the ACO concurs with the recommendation of the PA or GFR, the ACO must issue a demand letter in accordance with DCMA-MAN 2501-10, "Contract Debts."

2.5. GOVERNMENT FLIGHT REPRESENTATIVE (GFR). GFR must evaluate contractor responsibility and liability for property loss under Ground and Flight Risk Clause (GFRC). The GFR works in partnership with the PA to investigate property loss of aircraft under the GFRC and provides recommendations to the ACO regarding the applicability of the GFRC's deductible for each relevant incident.

SECTION 3: PROPERTY LOSS

3.1. PROPERTY LOSS OVERVIEW. Property loss case adjudication is a transactional requirement to administer a contract. The Government generally assumes the risk of loss under the Government Property clause (FAR 52.245-1) unless a condition in paragraph 3.4. or 3.6. of this Manual is present (see FAR 45.104). The Government Property clause requires the contractor to have a process to enable the prompt recognition, investigation, disclosure, and reporting of loss of Government property, including losses that occur at subcontractor or alternate site locations. All loss cases must be adjudicated before closing a contract for property administration.

3.2. ENSURE CONTRACTOR REPORTING OF PROPERTY LOSS. Pursuant to Defense Federal Acquisition Regulation Supplement (DFARS) 252.245-7002(b), “Reporting Loss of Government Property,” PAs will ensure contractors provide the information required by Federal Acquisition Regulation (FAR) 52.245-1(f) (1)(vii)(B)(1) through (12) in the Property Loss eTool. Contractors are required to report losses of any kind, including damage and those that occur under contracts containing DFARS 252.228-7001, “Ground-and-Flight Risk.”

3.3. EVALUATE CONTRACTOR RESPONSIBILITY AND LIABILITY FOR PROPERTY LOSS.

a. The PA must evaluate property loss reports upon receipt, and rejects cases that do not:

(1) Involve property that meets the FAR 52.245-1(a) definition of “Government property” and the DFARS 252.245-7002 definition and reporting criteria for “loss of Government property.

(2) Contain required information identified at FAR 52.245-1(f) (1)(vii)(B)(1) through (12).

b. When rejecting a property loss case, the PA should clearly describe which information is insufficient and provide the contractor with a suspense for resubmittal. Contractor compliance with the resubmission suspense must be tracked by the PA.

c. Within 90 days of receipt of an acceptable property loss report from the contractor, the PA must:

(1) Review the contract terms and conditions to determine whether the contract provides that the risk of loss is assumed by the Government or the contractor. If one or more subcontractor contributed to or caused the loss, assess the extent of subcontractor responsibility and liability.

(2) Evaluate facts concerning any payment the contractor may receive or be entitled to receive for the loss from a third party, including whether the loss is covered by insurance or the contractor was (or expects to be) otherwise reimbursed.

(3) Determine if property loss was caused by deficiencies in the contractor's property management system. If so, the PA should follow the steps outlined in DCMA-MAN 2301-01, "Contractor Business Systems."

3.4. FORWARD TO GFR. If DFARS 252.228-7001 is in the contract, and the PA determines a loss occurred to an aircraft "in the open" (as defined in DFARS 252.228-7001), the PA must forward the case to the GFR (or alternates) for adjudication.

3.5. MAKE A LIABILITY DETERMINATION OR RECOMMENDATION. If the PA concludes, after evaluation of the contract and facts, that the risk of loss is imposed upon the Government, the PA must relieve the contractor of responsibility and liability in writing, consistent with Certificate of Appointment authority, and provide the ACO a copy of that determination. By contrast, if the PA determines the potential property loss was a risk assumed by the contractor, the PA must recommend that the Contracting Officer select one of the following alternatives:

- a. Hold the contractor fully or partially responsible and liable for the item's unit acquisition cost.
- b. Authorize contractor to repair or replace the property.
- c. Determine a form of consideration appropriate to the circumstances.

3.6. ACO DECISION ON WHETHER TO HOLD CONTRACTOR RESPONSIBLE AND LIABLE. The ACO should, in consultation with assigned DCMA legal counsel, determine the party upon whom the contract imposes the risk of loss within 90 days of receipt of the PA's liability recommendation.

a. The Contracting Officer should consider holding the contractor responsible and liable when one or more of the following conditions exist:

(1) Property loss is a result of willful misconduct or lack-of-good faith on the part of contractor managerial personnel in accordance with FAR 52.245-1(h)(1)(ii).

(2) The Government's assumption of risk for property loss was previously withdrawn in accordance with FAR 45.104(b).

(3) The loss is covered by insurance or the contractor is/will be otherwise reimbursed, or

(4) The possibility of property loss was a risk assumed by the contractor; i.e., such action is authorized by contract terms and conditions (see FAR 45.104 and DFARS 245.104).

b. If the ACO determines the contractor liable, the ACO will issue a determination letter in accordance with DCMA-MAN 2501-10. If the ACO does not concur with the PA or GFR recommendation, the case will be returned to the PA for further action.

3.7. MAINTAIN FILES AND REPORTING. While PAs have primary responsibility for data integrity and reporting, ACOs and GFRs must provide monthly status updates to the PA either within the Property Loss eTool or via email when they have the next action on a property loss case. The PA must:

a. Maintain data integrity within the Property Loss eTool to reflect results of evaluations, analyses, investigations, etc., and regularly uploading support documentation. When a case has been forwarded to the GFR for adjudication, or a recommendation is made to the ACO to hold the contractor liable, status updates will be made by the PA within the Property Loss eTool at least monthly.

b. When Government property contains, or potentially contains, classified or sensitive data, report all incidents of property loss to DCMA-DCS (Security Division) and Defense Security Service.

c. When Government property contains arms, ammunition, or explosives, report all incidents of property loss to DCMA-DCS (Security Division), the Defense Security Service, and appropriate law enforcement organizations.

d. Take other required actions as may be necessary and appropriate by contract terms and conditions and other DCMA policy.

GLOSSARY

G.1. DEFINITIONS.

Administrative Contracting Officer (ACO). An ACO performs those contract administration functions delegated by a Procuring Contracting Officer (PCO) to the ACO. See FAR 2.101, Definitions, and FAR 42.302(a) for a list of functions a PCO may delegate to an ACO. Typically within DCMA, all duties listed in FAR Part 42 are assigned to the ACO with the exception of FAR 42.302(a)(24), which deals with contract termination.

Government Contract Property. All property owned or leased by the Government accountable to a contract. Government property includes both Government-furnished and Contractor-acquired property. Government property includes material, equipment, special tooling, special test equipment, and real property. Government property does not include intellectual property and software.

Government Flight Representative (GFR). Administers the requirements of the GFRC as described in the applicable combined instruction, “Contractor’s Flight and Ground Operations” (DCMA-INST 8210.1).

Ground and Flight Risk Clause (GFRC). As described in DFARS 228.370(b)(1) and implemented at 252.228-7001, this clause is in solicitations and contracts for the acquisition, development, production, modification, maintenance, repair, flight, or overhaul of aircraft, and provides clarification of liability for aircraft losses.

Property Administrator (PA). An authorized representative of the Contracting Officer appointed in accordance with agency procedures, responsible for administering the contract requirements and obligations relating to Government property in the possession of a Contractor.

Property Loss. Unintended, unforeseen or accidental loss, damage or destruction to Government property that reduces the Government’s expected economic benefits of the property. Loss of Government property does not include purposeful destructive testing, obsolescence, normal wear and tear or manufacturing defects. Loss of Government property includes, but is not limited to:

- (1) Items that cannot be found after a reasonable search;
- (2) Theft;
- (3) Damage resulting in unexpected harm to property requiring repair to restore the item to usable condition; or
- (4) Destruction resulting from incidents that render the item useless for its intended purpose or beyond economical repair.

Sensitive property. Property potentially dangerous to the public safety or security if stolen, lost, or misplaced, or that must be subject to exceptional physical security, protection, control, and accountability. Examples include weapons, ammunition, explosives, controlled substances, radioactive materials, hazardous materials or wastes, or precious metals.

GLOSSARY

G.2. ACRONYMS.

ACO	Administrative Contracting Officer
DCMA-DCS	DCMA Security Division
DCMA-INST	DCMA Instruction
DCMA-MAN	DCMA Manual
DCMAS	DCMA Special Programs
DFARS	Defense Federal Acquisition Regulation Supplement
FAR	Federal Acquisition Regulation
FLS	First Level Supervisor
GFR	Government Flight Representative
GFRC	Ground and Flight Risk Clause
PA	Property Administrator
PCO	Procuring Contracting Officer

REFERENCES

DCMA Instruction 131, "Contractor Business Systems," November 6, 2013
DCMA Instruction 8210.1B, "Contractor's Flight and Ground Operations," March 1, 2007
DCMA Manual 2501-10, "Contract Debts," April 13, 2018
DCMA Manual 2301-01, "Contractor Business Systems," TBD
Defense Federal Acquisition Regulation Supplements 252.228-7001, "Ground and Flight Risk"
(clause)
Defense Federal Acquisition Regulation Supplements 252.245-7002, "Reporting Loss of
Government Property" (clause)
DoD Directive 5105.64, "Defense Contract Management Agency (DCMA)," January 10, 2013
DoD Instruction 5000.64, "Accountability and Management of DoD Equipment and Other
Accountable Property," April 27, 2017
Federal Acquisition Regulation 52.245-1, Government Property (clause)