

when requested by the property administrator.

(b) When it is determined that the contractor's property control system is deficient, the property administrator, in coordination with the contracting officer, shall discuss the deficiencies with the contractor. If the contractor does not take action to correct the deficiencies, the contracting officer shall provide the contractor with a written notice of the deficiencies and the date all deficiencies must be corrected.

PART 1246—QUALITY ASSURANCE

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AUTHORITY: 5 U.S.C. 301; 41 U.S.C. 418(b); 48 CFR 3.1.

SOURCE: 59 FR 40286, Aug. 8, 1994, unless otherwise noted.

Subpart 1246.7—Warranties

1246.701 Definitions.

1246.701-70 Additional definitions.

At no additional cost to the Government means at no increase in price for firm-fixed-price contracts, at no increase in target or ceiling price for fixed price incentive contracts (see (FAR) 48 CFR 46.707), or at no increase in estimated cost or fee for cost-reimbursement contracts.

Defect means any condition or characteristic in any supplies or services furnished by the contractor under the contract that is not in compliance with the requirements of the contract.

Design and manufacturing requirements means structural and engineering plans

and manufacturing particulars, including precise measurements, tolerances, materials and finished product tests for the major system being produced.

Major system means a system or major subsystem used directly by DOT to carry out its mission(s), as defined by TAM Chapter 1234, Major Acquisition Policies and Procedures (for dollar threshold applicable to U.S. Coast Guard, See Coast Guard guidance at (TAR) 48 CFR 1246.701-90). The term does not include:

(a) Related support equipment, such as ground-handling equipment, training devices and accessories thereto, unless a cost effective warranty for the system would require inclusion of such items; or

(b) Commercial items sold in substantial quantities to the general public as described in (FAR) 48 CFR 15.804-1..

Performance requirements means the operating capabilities, maintenance, and reliability characteristics of a system that are determined to be necessary for it to fulfill the requirement for which the system is designed.

[59 FR 40286, Aug. 8, 1994, as amended at 62 FR 26420, May 14, 1997]

1246.701-90 Additional USCG definitions. (USCG)

For the USCG, in accordance with Public Law 99-190, the dollar threshold as it pertains to the inclusion of a warranty in major systems acquisitions is \$10 million.

1246.703 Criteria for use of warranties.

(a) *Major systems.* The use of warranties in the procurement of major systems by the USCG is mandatory, unless waived (see USCG guidance at (TAR) 48 CFR 1246.792). Other OAs may use the procedures in USCG guidance in this part as a guideline for major systems acquisitions.

(b) *Other systems.* (1) Acquisition of warranties in the procurement of supplies that do not meet the definition of a major system (e.g., spare, repair, or replenishment parts) is governed by (FAR) 48 CFR 46.703.

(2) Contracting officers should negotiate a warranty that meets or exceeds

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the requirements of (TAR) 48 CFR 1246.706 when it is advantageous.

1246.705 Limitations.

(a) The following restrictions are applicable to DOT contracts:

(1) The USCG is the only DOT OA which is required to include a warranty in cost reimbursement contracts for the production of major systems acquisitions.

(2) Any warranty on major system acquisitions shall not apply in the case of any system or component thereof which has been furnished by the Government to a contractor except as indicated in the USCG guidance at (TAR) 48 CFR 1246.790-3.

(3) Any warranty obtained shall specifically exclude coverage of damage in time of war or national emergency.

[59 FR 40286, Aug. 8, 1994, as amended at 62 FR 67752, Dec. 30, 1997]

1246.706 Warranty terms and conditions.

(a) The contracting officer, in developing the warranty terms and conditions, shall consider the following, and, where appropriate and cost beneficial, shall:

(1) Identify the affected line item(s) and the applicable specification(s);

(2) Require that the line item's design and manufacture will conform to: (i) an identified revision of a top-level drawing; and/or (ii) an identified specification or revision thereof;

(3) Require that the system conform to the specified Government performance requirements;

(4) Require that all systems and components delivered under the contract will be free from defects in materials and workmanship;

(5) State that in the event of failure due to nonconformance with specification and/or defects in material and workmanship, the contractor will bear the cost of all work necessary to achieve the specified performance requirements, including repair and/or replacement of all parts;

(6) Require the timely replacement/repair of warranted items and specify lead times for replacement/repair where possible;

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(7) Identify the specific paragraphs containing Government performance requirements which must be met;

(8) Ensure that any performance requirements identified as goals or objectives in excess of specification requirements are excluded from the warranty provision;

(9) Define what constitutes the start of the warranty period (e.g., delivery, acceptance, in-service date), the ending of the warranty (e.g., passing a test or demonstration, or operation without failure for a specified time period), and circumstances requiring an extension of warranty duration (e.g., extending the warranty period as a result of mass defect correction during warranty period);

(10) Identify what transportation costs will be paid by the contractor in conjunction with warranty coverage;

(11) Identify any conditions which will not be covered by the warranty, other than the exclusion of combat damage; and

(12) Identify any limitation on the total dollar amount of the contractor's warranty exposure, or agreement to share costs after a certain dollar threshold to avoid unnecessary warranty returns.

(b) Any contract that contains a warranty clause must contain warranty implementation procedures, including warranty notification content and procedures, and identify the individuals responsible for implementation of warranty provisions. The contract may also permit the contractor's participation in investigation of system failures, providing that the contractor is reimbursed at established rates for fault isolation work, and that the Government receive credit for any payments where equipment failure is covered by warranty provisions.

1246.790 Use of warranties in major systems acquisitions by the USCG. (USCG)

This subpart sets forth the policy for the USCG to use in obtaining warranties from contractors when contracting for the acquisition of a major system.