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TITLE 27. CONTRACTS AND PROCUREMENTS
CHAPTER 40. QUALITY ASSURANCE

CDCR 27-4000 (2007)

27-4000. CONTRACTING OFFICER RESPONSIBILITIES

4000.1 The contracting officer shall ensure that the supplies, services, or construction procured under each District contract conform to the quality and quantity requirements of the contract, including inspection, acceptance, warranty, and any other measures associated with quality assurance.

4000.2 The contracting officer shall be responsible for the following;

(a) Ensuring that each contract includes inspection and other quality requirements, including warranty clauses when appropriate, which are necessary to protect the District's interests;

(b) Ensuring that contract quality assurance is conducted by the District before acceptance, except as otherwise provided in this chapter, by or under the direction of District personnel;

(c) Ensuring that no contract precludes the District from performing inspection;

(d) Ensuring that nonconforming supplies, services, or construction are rejected, except as otherwise provided in this chapter;

(e) Ensuring that the quality assurance and acceptance services of the using agency are used when this will be effective, economical, or otherwise in the best interests of the District;

(f) Obtaining any specifications for inspection, testing, and other contract quality requirements essential to ensure the integrity of the supplies, services, or construction from the agency responsible for the technical requirements; and

(g) Including in solicitations and contracts the necessary requirements for the contractor's control of quality for the supplies, services, or construction to be procured.

AUTHORITY: Unless otherwise noted, the authority of this chapter is the District of Columbia Procurement Practices Act of 1985, D.C. Law 6-85, as amended, D.C. Code § 1-1181.1 et seq. (1981)

SOURCE: Final Rulemaking published at 35 DCR 1714 (February 26, 1988)
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TITLE 27. CONTRACTS AND PROCUREMENTS
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CDCR 27-4001 (2007)

27-4001. CONTRACT ADMINISTRATOR RESPONSIBILITIES

4001.1 The using agency, or the individual(s) responsible for contract administration in the case of a term contract, shall do the following:

- (a) Develop and apply efficient procedures for performing District contract quality assurance actions under the contract in accordance with the written directions of the contracting officer;
- (b) Perform all actions necessary to verify whether the supplies, services, or construction conform to contract quality requirements;
- (c) Implement any specific written instructions from the contracting officer;
- (d) Report to the contracting officer any defects observed in design or technical requirements, including contract quality requirements; and
- (e) Recommend any changes necessary to the contract, specifications, instructions, or other requirements that will provide more effective operations or eliminate unnecessary costs.

4001.2 The using agency shall maintain, as part of the performance records of the contract, suitable records reflecting the following:

- (a) Contract quality assurance actions, including, when appropriate, the number of observations made and the number and type of defects; and
- (b) Decisions regarding the acceptability of the products as well as actions to correct defects.

CDCR 27-4001

SOURCE: Final Rulemaking published at 35 DCR 1715 (February 26, 1988)
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TITLE 27. CONTRACTS AND PROCUREMENTS
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CDCR 27-4002 (2007)

27-4002. CONTRACTOR RESPONSIBILITIES

4002.1 The contractor shall be responsible for carryins out its obligations under the contract by doing the following:

- (a) Controlling the quality of supplies, services, or construction;
- (b) Ensuring that vendors or suppliers of raw materials, parts, components, and subassemblies have an acceptance quality control system;
- (c) Tendering to the District for acceptance only those supplies, services, or construction that conform to contract requirements; and
- (d) Maintaining substantiating evidence, when required by the contract, that the supplies, services, or construction conform to contract quality requirements, and furnishing that information to the District, upon request.

4002.2 The contracting officer may require the contractor to provide and maintain an inspection system or program for the control of quality that is acceptable to the District.

4002.3 The control of quality by the contractor may relate to, but is not limited to, the following:

- (a) Manufacturing processes, to ensure that the product produced to and meets the contract's technical requirements;
- (b) Drawings, specifications, and engineering changes, to ensure that manufacturing methods and operations meet the contract's technical requirements;
- (c) Testing and examination, to ensure that practices and equipment provide the means for optimum evaluation of the characteristics subject to inspection;

(d) Reliability and maintainability assessment, including life, endurance, and continued readiness;

(e) Fabrication and delivery of products, to ensure that only conforming products are tendered to the District;

(f) Technical documentation, including drawings, specifications, handbooks, manuals, and other technical publications;

(g) Preservation, packaging, packing, and marking; and

(h) Procedures and processes for services and construction to ensure that services and construction meet contract performance requirements.

4002.4 The contractor shall be responsible for performing all inspections and tests required by the contract except those specifically reserved for performance by the District.

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CDCR 27-4003 (2007)

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CDCR 27-4004 (2007)

27-4004. CONTRACT QUALITY REQUIREMENTS

4004.1 The type and extent of contract quality requirements needed in each solicitation or contract under § 4000.2(a) shall depend on the particular procurement and may range from inspection at time of acceptance to a requirement for the contractor's implementation of a comprehensive program for controlling quality.

4004.2 A solicitation or contract may provide for alternative, but substantially equivalent, inspection methods to obtain broader competition and reduce costs.

4004.3 The contracting officer may authorize alternative quality [quality] control or inspection methods recommended by the contractor when in the best interests of the District and approved by the agency responsible for the technical [technical] requirements.

4004.4 Except as otherwise specified by the contract, required contractor testing may be performed in the contractor's, or a subcontractor's, testing facility or in any other testing facility acceptable to the contracting officer.

4004.5 Except as provided in § 4004.6, when supplies, services, or construction are procured by small purchase procedures pursuant to chapter 18 of this title, the District shall rely on the contractor to accomplish all inspection and testing needed to ensure compliance with contract quality requirements before the supplies, services, or construction are tendered to the District.

4004.6 The District shall not rely on inspection by the contractor if the contracting officer determines that the District has a need to test the supplies, services, or construction in advance of their tender for acceptance, or determines that there is a need to review the adequacy of the contractor's internal work processes. In making the determination, the contracting officer shall consider the following:

- (a) The nature of the supplies, services, or construction being procured and their intended use;
- (b) The potential losses in the event of defects;
- (c) The likelihood of uncontested replacements or correction of defective work; and
- (d) The cost of a detailed inspection by the District.

4004.7 With respect to supplies, services or construction other than small purchase procurements, the contracting officer shall include in each solicitation and contract a standard clause, approved by the Director, setting forth inspection guidelines that requires the contractor to do the following:

- (a) Provide and maintain an inspection system that is acceptable to the District;
- (b) Give the District the right to make inspections and tests while work is in progress; and
- (c) Keep complete records of its inspection work which are available to the District upon request.

4004.8 The contracting officer shall determine the extent of contract quality requirements, including contractor inspection, required under each contract.

SOURCE: Final Rulemaking published at 35 DCR 1717 (February 26, 1988)
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CDCR 27-4005 (2007)

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CDCR 27-4006 (2007)

27-4006. DISTRICT CONTRACT QUALITY ASSURANCE

4006.1 District contract quality assurance shall be performed at times and at places necessary to determine that the supplies, services, or construction conform to contract requirements.

4006.2 Each contract shall designate the place or places where the District reserves the right to perform quality assurance.

4006.3 If the contract provides for performance of District quality assurance at the source, the place or places of performance shall not be changed without the authorization of the contracting officer.

4006.4 If a contract provides for delivery and acceptance at destination, and the District inspects the supplies at a place other than the destination, the supplies shall not be reinspected at the destination but shall be examined for quantity, damage in transit, and possible substitution or fraud.

4006.5 District inspection shall be performed by or under the direction or supervision of District government personnel.

4006.6 The individual responsible for the District inspection shall document the inspection on an inspection or receiving report form, approved by the Director, or on a commercial shipping document or packing list.

SOURCE: Final Rulemaking published at 35 DCR 1718 (February 26, 1988)
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CDCR 27-4007 (2007)

27-4007. CONTRACT QUALITY ASSURANCE AT SOURCE

4007.1 The District shall perform contract quality assurance, including inspection, at the source in the following circumstances:

- (a) Performance at any other place would require uneconomical disassembly or destructive testing;
- (b) Considerable loss would result from the manufacture and shipment of unacceptable supplies, or from the delay in making necessary corrections;
- (c) Specially required instruments, gauges, or facilities are available only at the source;
- (d) Performance at any other place would destroy or require the replacement of costly special packing and packaging;
- (e) District inspection during contract performance is essential; or
- (f) The contracting officer determines that source inspection is in the best interests of the District.

SOURCE: Final Rulemaking published at 35 DCR 1719 (February 26, 1988)
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CDCR 27-4008 (2007)

27-4008. CONTRACT QUALITY ASSURANCE AT DESTINATION

4008.1 District contract quality assurance that can be performed at destination shall be limited to inspection of the supplies or services.

4008.2 Inspection shall be performed at destination under the following circumstances:

- (a) Supplies are purchased off-the-shelf and require no technical inspection;
- (b) Necessary testing equipment is located only at destination;
- (c) The supplies are perishable;
- (d) The contract is for services performed at the destination; or
- (e) The contracting officer determines that inspection at destination is in the best interests of the District.

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CDCR 27-4009 (2007)

27-4009. CONTRACT QUALITY ASSURANCE FOR SMALL PURCHASES

4009.1 In determining the type and extent of District contract quality assurance to be required for small purchases, the contracting officer shall consider the criticality of application of the supplies or services, the amount of possible losses, and the likelihood of uncontested replacement of defective work.

4009.2 Except as provided in § 4009.5, when the circumstances set forth in § 4004.6 exist, the District shall inspect shall purchases at destination only for type and kind, quantity, damage, operability, and may inspect for preservation, packaging, packing, and marking, if applicable.

4009.3 Except as provided in § 4004.6, detailed District inspection may be limited to those characteristics that are special or likely to cause harm to personnel or property.

4009.4 Except as provided in § 4004.6, when repetitive purchases of the same item are made from the same manufacturer with a history of defect-free work, District inspection may be reduced to a periodic check of purchases.

4009.5 In special situations such as those specified in § 4007, the contracting officer may require more detailed quality assurance.

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CDCR 27-4010 (2007)

27-4010. CONTRACT QUALITY ASSURANCE OF SUBCONTRACTS

4010.1 District contract quality assurance on subcontracted supplies, services, or construction shall be performed only when required in the best interests of the District.

4010.2 District contract quality assurance on subcontracted supplies, services, or construction shall not relieve the prime contractor of any responsibilities under the contract.

4010.3 The contracting officer shall perform quality assurance at the subcontract level in the following circumstances:

- (a) The item is to be shipped from the subcontractor's plant directly to the District, and inspection at source is required;
- (b) The conditions for quality assurance at the source under § 4007 are applicable;
- (c) The contract specifies that certain quality assurance functions, which can be performed only at the subcontractor's plant, are to be performed by the District; or
- (d) It is otherwise required by the contract or determined by the contracting officer to be in the best interests of the District.

4010.4 All written statements and contract terms and conditions relating to District quality assurance actions at the subcontract level shall be worded so as not to do any of the following:

- (a) Affect the contractual relationship between the prime contractor and the District, or between the prime contractor and the subcontractor;

(b) Establish a contractual relationship between the District and the subcontractor; or

(c) Constitute a waiver of the District's right to accept or reject the supplies, services, or construction.

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CDCR 27-4011 (2007)

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CDCR 27-4013 (2007)

27-4013. NONCONFORMING SUPPLIES, SERVICES, OR CONSTRUCTION

4013.1 Except as provided in §§ 4013.5 and 4013.6, the contracting officer shall reject supplies, services, or construction which do not conform in all respects to contract requirements.

4013.2 The contractor shall be given an opportunity to correct or replace nonconforming supplies, services, or construction when the correction or replacement can be accomplished within the required delivery or performance schedule.

4013.3 Unless the contract specifies otherwise, correction or replacement shall be done without additional cost to the District.

4013.4 In situations not covered by § 4013.2, the contracting officer shall reject the supplies, services, or construction when the nonconformance adversely affects safety, health, reliability, durability, performance, or any other basic objective of the specification.

4013.5 In situations not covered by § 4013.2, nonconforming supplies, services, or construction may be accepted by the contracting officer if the contracting officer determines that acceptance is in the best interests of the District.

4013.6 In situations not covered by § 4013.2, the contracting officer shall consider the following when making a determination whether nonconforming items will be accepted:

- (a) Advice of the using agency technical personnel that the material is safe to use and will perform its intended purpose;
- (b) Information regarding the nature and extent of the nonconformance;
- (c) A request from the contractor for acceptance of the supplies, services, or construction, if feasible;

(d) A recommendation by the contract administrator for acceptance or rejection, with supporting rationale; and

(e) The contract adjustment considered appropriate, including any adjustment offered by the contractor.

4013.7 The contract administrator shall furnish the data required in § 4013.6 to the contracting officer in writing. When it is in the best interests of the District, the data may be furnished verbally and later confirmed in writing.

4013.8 Before making a decision to accept nonconforming items, the contracting officer shall obtain the written concurrence of the head of the using agency, or the agency head's designee.

4013.9 The contracting officer shall discourage the repeated tender of nonconforming items by appropriate action, including rejection of nonconforming items, when appropriate, and documentation of the contractor's performance record.

4013.10 Except when the nonconformity is minor, each contract under which nonconforming items are accepted shall be modified by the contracting officer to provide for an equitable price reduction or other consideration.

4013.11 When the contracting officer rejects nonconforming supplies, services, or construction, the contracting officer shall issue a notice of rejection in writing and include the reasons for rejection. The notice of rejection shall be issued to the contractor within five (5) working days of the rejection.

SOURCE: Final Rulemaking published at 35 DCR 1721 (February 26, 1988)
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CDCR 27-4014 (2007)

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CDCR 27-4018 (2007)

27-4018. ACCEPTANCE

4018.1 Acceptance shall constitute acknowledgement that the supplies, services, or construction conform to the applicable contract quality and quantity requirements, except as provided in this section and subject to other terms and conditions of the contract.

4018.2 Acceptance may take place before delivery, at the time of delivery, or after delivery, depending on the terms and conditions of the contract.

4018.3 Supplies, services, or construction shall not be accepted before completion of District contract quality assurance actions.

4018.4 Acceptance shall be evidenced by execution of an acceptance certificate on an inspection or receiving report form or on a commercial shipping document or packing list.

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CDCR 27-4019 (2007)

27-4019. RESPONSIBILITY FOR ACCEPTANCE

4019.1 Acceptance of supplies, services, or construction shall be the responsibility of the contracting officer.

4019.2 When the contracting officer assigns the responsibility for acceptance to another District employee, acceptance by that employee shall be binding on the District.

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CDCR 27-4020 (2007)

27-4020. PLACE OF ACCEPTANCE

4020.1 Each contract shall specify the place of acceptance.

4020.2 Contracts that provide for District contract quality assurance at the source shall provide for acceptance at the source.

4020.3 Contracts that provide for District contract quality assurance at destination shall provide for acceptance at destination.

4020.4 Supplies accepted at a place other than destination shall not be reinspected at destination for acceptance purposes, but shall be examined at destination for quantity, damage in transit, and possible substitution or fraud.

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CDCR 27-4021 (2007)

27-4021. CERTIFICATE OF CONFORMANCE

4021.1 A certificate of conformance may be used instead of source inspection, whether the contract calls for acceptance at the source or at destination, at the discretion of the contracting officer, if the following conditions apply:

(a) Acceptance on the basis of a contractor's certificate of conformance is in the best interests of the District; and

(b) Either small losses would be incurred in the event of a defect; or, based on the contractor's reputation or past performance, it is likely that the supplies or services furnished will be acceptable and any defective work would be replaced, corrected, or repaid without contest.

4021.2 Even if a certificate of conformance is used pursuant to § 4021.1, the District's right to inspect supplies, services, and construction under the inspection provisions of the contract shall not be prejudiced.

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CDCR 27-4022 (2007)

27-4022. TRANSFER OF TITLE AND RISK OF LOSS

4022.1 Title to supplies and construction shall pass to the District upon formal acceptance, regardless of when or where the District takes physical possession, unless the contract specifically provides for earlier passage of title.

4022.2 Unless the contract specifically provides otherwise, risk of loss of or damage to supplies shall remain with the contractor until, and shall pass to the District upon either of the following:

- (a) Delivery of the supplies to a carrier if transportation is f.o.b. origin; or
- (b) Acceptance by the District or delivery of the supplies to the District at the destination specified in the contract, whichever is later, if transportation is f.o.b. destination.

4022.3 The provisions of § 4022.2 shall not apply to supplies that so fail to conform to contract requirements as to give the District a right of rejection.

4022.4 The risk of loss of or damage to nonconforming supplies shall remain with the contractor until cure or acceptance. After cure or acceptance, the provisions of § 4022.2 shall apply.

4022.5 The contractor shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents, or employees of the District acting within the scope of their employment.

4022.6 The risk of loss or damage to construction shall remain with the contractor until formal acceptance of the construction by the District.

4022.7 If any of a construction project is excepted from normal acceptance by the District due to defects or failure to conform to the requirements and specifications of the contract, or is subject to contingent acceptance pending cure of defects, the risk of loss or damage to the construction shall remain with the contractor until the defects are cured and the contingency is removed or the construction is formally accepted by the District.

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CDCR 27-4026 (2007)

27-4026. WARRANTIES

4026.1 The contracting officer shall ensure that each warranty in a District contract clearly delineates the rights and obligations of the contractor and the District for defective items and services and fosters quality performance.

4026.2 A warranty shall provide the following:

(a) A contractual right for the correction of defects, notwithstanding any other requirement of the contract pertaining to acceptance of the supplies or service by the District; and

(b) A stated period of time or use, or the occurrence of a specified event, after acceptance by the District within which the District may assert a contractual right for the correction of defects.

4026.3 The contracting officer shall ensure that the benefits to be derived from a warranty are commensurate with the cost of the warranty to the District.

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CDCR 27-4027 (2007)

27-4027. CRITERIA FOR USE OF WARRANTIES

4027.1 The contracting officer shall determine whether a warranty is appropriate for each specific procurement. If a warranty is appropriate, the contracting officer shall use a warranty clause, approved by the Director, that is consistent with the contractor's performance obligations under the contract.

4027.2 In determining whether a warranty is appropriate for a specific procurement, the contracting officer shall consider the following factors:

(a) The nature and use of the supplies, services, or construction such as complexity and function, degree of development, state of the art, end use, difficulty in detecting defects before acceptance, and potential harm to the District if the item is defective;

(b) Costs arising from the contractor's charge for accepting the deferred liability created by the warranty and the District's administration and enforcement of the warranty;

(c) The District's ability to enforce the warranty, and the assurance that an adequate administrative system for reporting defects exists or will be established;

(d) Whether there is the practice in the trade of customarily warranting the supply, service, or construction, and whether the cost of the supply, service, or construction will therefore be the same whether a warranty is included;

(e) The possible reduction of the District's quality assurance requirements where the warranty provides adequate assurance of a satisfactory product; and

(f) Any other factors that the contracting officer deems appropriate for the specific procurement.

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CDCR 27-4028 (2007)

27-4028. USE OF WARRANTIES

4028.1 The contracting officer shall not include a warranty in a cost-reimbursement contract unless approved by the head of the contracting agency.

4028.2 A warranty clause shall not limit the District's rights under an inspection clause in relation to latent defects, fraud, or gross mistakes that amount to fraud.

4028.3 A warranty clause shall provide that the warranty applies notwithstanding inspection and acceptance, or other clauses or terms of the contract.

4028.4 The Director shall prescribe procedures for the use of warranties in contracts.

SOURCE: Final Rulemaking published at 35 DCR 1726 (February 26, 1988)
History of Rules since Last Compilation by Agency (July 1988)

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TITLE 27. CONTRACTS AND PROCUREMENTS
CHAPTER 40. QUALITY ASSURANCE

CDCR 27-4029 (2007)

27-4029. WARRANTY TERMS AND CONDITIONS

4029.1 To facilitate the pricing and enforcement of warranties, the contracting officer shall ensure that each warranty clearly states the following:

- (a) The exact nature of the item and its components and the characteristics that the contractor warrants;
- (b) The extent of the contractor's warranty, including all of the contractor's obligations to the District for breach of warranty;
- (c) The specific remedies available to the District; and
- (d) The scope and duration of the warranty.

4029.2 The contractor's obligations under a warranty shall extend to all defects discovered during the warranty period, but shall not include any damage caused solely by the District.

4029.3 When the contracting officer determines that a warranty for the entire item is not in the best interests of the District, the contracting officer may require a warranty for a particular aspect of the item that may require special protection, such as installation, components, accessories, subassemblies, preservation, packaging, or packing.

4029.4 A warranty shall provide, at a minimum, that the District may obtain an equitable adjustment of the contract or direct the contractor to repair or replace the defective item at the contractor's expense.

4029.5 If it is not practical to require the contractor to make a repair or provide a replacement, or, because of the nature of the item, the repair or replacement does not afford an appropriate remedy to the District, the warranty may provide an alternative, such as

appropriate remedy to the District, the warranty may provide an alternative, such as allowing the District to do either of the following:

- (a) Retain the defective item and reduce the contract price by an amount equitable under the circumstances; or
- (b) Arrange for the repair or replacement of the defective item by the District, or by another source, at the contractor's expense.

4029.6 The contracting officer shall clearly specify the duration of the warranty after consideration of the following factors:

- (a) The estimated useful life of the item;
- (b) The nature of the item including storage or shelf-like; and
- (c) Trade practice.

4029.7 The duration of the warranty shall not extend the contractor's liability for patent defects beyond a reasonable time after acceptance by the District.

4029.8 If the District specifies the design of the end item and its measurements, tolerances, materials, tests, or inspection requirements, the contractor's obligations for correction of defects shall be limited to defects in material and workmanship or failure to conform to specifications. If the District does not specify the design, the warranty shall extend to the usefulness of the design.

4029.9 Each warranty shall specify a reasonable time for furnishing notice to the contractor regarding the discovery of defects. The contracting officer shall consider the following factors when establishing the notice period:

- (a) The time necessary for the District to discover the defects;
- (b) The time reasonably required for the District to take necessary administrative steps and make a timely report of discovery of the defects to the contractor; and
- (c) The time required to discover and report defective replacements.

4029.10 The packaging and preservation requirements of a contract shall require the contractor to stamp or mark the supplies delivered or otherwise furnish notice with the supplies of the existence of the warranty.

SOURCE: Final Rulemaking published at 35 DCR 1727 (February 26, 1988)
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TITLE 27. CONTRACTS AND PROCUREMENTS
CHAPTER 40. QUALITY ASSURANCE

CDCR 27-4030 (2007)

27-4030. FIXED-PRICE INCENTIVE CONTRACT WARRANTIES

4030.1 If a fixed-price incentive contract contains a warranty, the contracting officer shall consider the estimated cost of the warranty to the contractor in establishing the incentive target price and the ceiling price of the contract.

4030.2 The contracting officer shall consider all costs incurred, or estimated to be incurred, by the contractor in complying with the warranty when establishing the total final price.

4030.3 Contractor compliance with the warranty after the establishment of the total final price shall be at no additional cost to the District.

SOURCE: Final Rulemaking published at 35 DCR 1729 (February 26, 1988)
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CDCR 27-4031 (2007)

4031-4032. RESERVED

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TITLE 27. CONTRACTS AND PROCUREMENTS
CHAPTER 40. QUALITY ASSURANCE

CDCR 27-4033 (2007)

27-4033. CONTRACTOR LIABILITY FOR LOSS OF OR DAMAGE TO DISTRICT
PROPERTY

4033.1 The provisions of this section shall apply to contractor liability for loss of or damage to District property that occurs after acceptance as a result of defects or deficiencies in the supplies delivered or services performed.

4033.2 Except as provided in §§ 4033.4 and 4033.5, the District shall act as a self-insurer by relieving contractors, as specified in this section, of liability for loss of or damage to property of the District that occurs after acceptance of supplies delivered or services performed under a contract as a result of defects or deficiencies in the supplies or services. However, the District shall not relieve the contractor of liability for loss of or damage to the contract end item itself, except for high-value items.

4033.3 Except as provided in §§ 4033.4 and 4033.5, in contracts requiring delivery of high-value items, the District shall relieve contractors of contractual liability for loss of or damage to those items. However, the relief shall not limit the District's rights arising under the contract to do the following:

(a) Have any defective item or its components corrected, repaired, or replaced when the defect or deficiency is discovered before the loss of or damage to high-value items occurs; or

(b) Obtain equitable relief when the defect or deficiency is discovered after such loss or damage occurs.

4033.4 The District shall not provide the contractual relief specified in §§ 4033.2 and 4033.3 when contractor liability can be preserved without increasing the contract price.

4033.5 Subject to the specific terms of the limitation of liability clause included in the contract, the relief provided under §§ 4033.2 and 4033.3 shall not apply, as follows:

(a) To the extent that contractor liability is expressly provided for under a contract clause approved by the Director;

(b) When a defect or deficiency in, or the District's acceptance of, the supplies, services, or construction results from willful misconduct or lack of good faith on the part of the contractor or its agent; or

(c) To the extent that any contractor insurance, or self-insurance reserve, covers liability for loss or damage suffered by the District through purchase or use of the supplies delivered or services performed under the contract.

4033.6 For items being priced at or based on catalog or market prices, the contracting officer shall not provide relief to contractors unless they can obtain a reduction from the catalog or market price which reflects the reduced contractor liability. The contracting officer shall include a clause, approved by the Director, to inform bidders and offerors of the provisions of this subsection.

SOURCE: Final Rulemaking published at 35 DCR 1729 (February 26, 1988)
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TITLE 27. CONTRACTS AND PROCUREMENTS
CHAPTER 40. QUALITY ASSURANCE

CDCR 27-4099 (2007)

27-4099. DEFINITIONS

4099.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed;

Acceptance - the act of an authorized representative of the District by which the District, for itself or as agent of another, assumes ownership of existing identified supplies tendered or approves specific services rendered or construction completed as partial or complete performance of the contract.

Certificate of conformance - a document used by a contractor to certify that supplies conform to the specifications of the contract. The certificate may be used instead of source inspection.

Contract administrator - an individual authorized by the contracting officer to perform all actions necessary to verify whether supplies, services, or construction conform to contract quality requirements.

Contract quality requirements - the technical requirements in the contract relating to the quality of the product or service and those contract clauses prescribing inspection, and other quality controls incumbent on the contractor, to assure that the supply, service, or construction conforms to the contractual requirements.

Complex items - includes those items having quality characteristics, not wholly visible in the end item, for which contractual performance must be established progressively through precise measurements, tests, and controls applied during purchasing, manufacturing, performance, assembly, and functional operation either as an individual item or in conjunction with other items.

Correction - the elimination of a defect.

Criticality - a critical application of an item is one in which the failure [failure] of the item could injure persons or jeopardize a vital agency mission.

Destination - the point designated in the contract at which the end product is received.

Director - the Director of the Department of Administrative Services.

District quality assurance - the various functions, including inspection, performed by the District to determine whether a contractor has fulfilled the contract obligations pertaining to quality and quantity.

F.O.B. - freight on board.

High-value item - a contract end item that has a high unit cost, exceeding one hundred thousand dollars (\$ 100,000) per unit, such as a communications system or computer system that is designated by the contracting officer as a high-value item.

Inspection - examining and testing supplies, services, or construction to determine whether they conform to contract requirements. This includes, when appropriate, examination and testing of raw materials, components, and intermediate assemblies.

Off-the-shelf item - an item produced and placed in stock by a contractor, or stocked by a distributor, before receiving orders or contracts for its sale.

Source - the point designated in the contract from which the end product is shipped.

Subcontractor - any supplier, distributor, vendor, or firm which furnishes supplies, services, or construction to or for a prime contractor or another subcontractor.

Term contract - a requirements contract or an indefinite quantity contract.

Testing - the element of inspection that determines the properties or elements, including functional operation of supplies or their components, by the application of established scientific principles and procedures.

Warranty - a promise or affirmation given by a contractor to the District regarding the nature, usefulness, or condition of the supplies, services, or construction furnished under a contract.

SOURCE: Final Rulemaking published at 35 DCR 1730 (February 26, 1988)
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