52.246-3 Inspection of Supplies-Cost-Reimbursement.

As prescribed in 46.303 , insert the following clause in *solicitations* and contracts for *supplies*, or services that involve the furnishing of *supplies*, when a cost-reimbursement contract is contemplated:

Inspection of *Supplies*-Cost-Reimbursement (*May* 2001)

(a) *Definitions*. As used in this clause-

Contractor's managerial personnel means any of the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of-

(1) All or substantially all of the Contractor's business;

(2) All or substantially all of the Contractor's operation at a plant or separate location where the contract is being performed; or

(3) A separate and complete major industrial operation connected with performing this contract.

Supplies includes but is not limited to raw materials, *components*, intermediate assemblies, *end products*, lots of *supplies*, and, when the contract does not include the *Warranty* of Data clause, data.

(b) The Contractor *shall* provide and maintain an *inspection* system acceptable to the Government covering the *supplies*, fabricating methods, and *special tooling* under this contract. Complete records of all *inspection* work performed by the Contractor *shall* be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test the contract *supplies*, to the extent practicable at all places and times, including the period of manufacture, and in any event before acceptance. The Government *may* also inspect the plant or plants of the Contractor or any subcontractor engaged in the contract performance. The Government *shall* perform *inspections* and tests in a manner that will not unduly delay the work.

(d) If the Government performs *inspection* or test on the premises of the Contractor or a subcontractor, the Contractor *shall* furnish and *shall* require subcontractors to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) Unless otherwise specified in the contract, the Government *shall* accept *supplies* as promptly as practicable after delivery, and *supplies shall* be deemed accepted 60 days after delivery, unless accepted earlier.

(f) At any time during contract performance, but no later than 6 months (or such other time as *may* be specified in the contract) after acceptance of the *supplies* to be delivered under the contract, the Government *may* require the Contractor to replace or correct any *supplies* that are nonconforming at time of delivery. *Supplies* are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with contract requirements. Except as otherwise provided in paragraph (h) of this clause, the cost of replacement or correction *shall* be included in allowable

cost, determined as provided in the Allowable Cost and Payment clause, but no additional fee *shall* be paid. The Contractor *shall* not tender for acceptance *supplies* required to be replaced or corrected without disclosing the former requirement for replacement or correction, and, when required, *shall* disclose the corrective action taken.

(g)

(1) If the Contractor fails to proceed with reasonable promptness to perform required replacement or correction, the Government *may*-

(i) By contract or otherwise, perform the replacement or correction and charge to the Contractor any increased cost or make an equitable reduction in any fixed fee paid or payable under the contract;

(ii) Require delivery of undelivered *supplies* at an equitable reduction in any fixed fee paid or payable under the contract; or

(iii) Terminate the contract for default.

(2) Failure to agree on the amount of increased cost to be charged to the Contractor or to the reduction in the fixed fee *shall* be a dispute.

(h) Notwithstanding paragraphs (f) and (g) of this clause, the Government *may* at any time require the Contractor to correct or replace, without cost to the Government, nonconforming *supplies*, if the nonconformances are due to-

(1) Fraud, lack of good faith, or willful misconduct on the part of the *Contractor's managerial personnel*; or

(2) The conduct of one or more of the Contractor's employees selected or retained by the Contractor after any of the *Contractor's managerial personnel* has reasonable grounds to believe that the employee is habitually careless or unqualified.

(i) This clause applies in the same manner to corrected or replacement *supplies* as to *supplies* originally delivered.

(j) The Contractor *shall* have no obligation or liability under this contract to replace *supplies* that were nonconforming at the time of delivery, except as provided in this clause or as *may* be otherwise provided in the contract.

(k) Except as otherwise specified in the contract, the Contractor's obligation to correct or replace Government-furnished property *shall* be governed by the clause pertaining to Government property.

(End of clause)

Parent topic: 52.246 [Reserved]