

Subpart 9.3 - First Article Testing and Approval

9.301 Definition.

Approval, as used in this subpart, means the *contracting officer's* written notification to the contractor accepting the test results of the *first article*.

9.302 General.

First article testing and *approval* (hereafter referred to as testing and *approval*) ensures that the contractor can furnish a product that conforms to all contract requirements for acceptance. Before requiring testing and *approval*, the *contracting officer shall* consider the-

- (a) Impact on cost or time of delivery;
- (b) Risk to the Government of foregoing such test; and
- (c) Availability of other, less costly, methods of ensuring the desired quality.

9.303 Use.

Testing and *approval may* be appropriate when-

- (a) The contractor has not previously furnished the product to the Government;
- (b) The contractor previously furnished the product to the Government, but-
 - (1) There have been subsequent changes in processes or specifications;
 - (2) Production has been discontinued for an extended period of time; or
 - (3) The product acquired under a previous contract developed a problem during its life;
- (c) The product is described by a performance specification; or
- (d) It is essential to have an approved *first article* to serve as a manufacturing standard.

9.304 Exceptions.

Normally, testing and *approval* is not required in contracts for-

- (a) Research or development;

(b) *Products* requiring qualification before award (*e.g.*, when an applicable *qualified products list* exists (see [subpart 9.2](#)));

(c) *Products* normally sold in the commercial market; or

(d) *Products* covered by complete and detailed technical specifications, unless the requirements are so novel or exacting that it is questionable whether the *products* would meet the requirements without testing and *approval*.

9.305 Risk.

Before *first article approval*, the *acquisition* of materials or *components*, or commencement of production, is normally at the sole risk of the contractor. To minimize this risk, the *contracting officer shall* provide sufficient time in the delivery schedule for *acquisition* of materials and *components*, and for production after receipt of *first article approval*. When Government requirements preclude this action, the *contracting officer may*, before *approval* of the *first article*, authorize the contractor to acquire specific materials or *components* or commence production to the extent essential to meet the delivery schedule (see *Alternate II* of the clause at [52.209-3](#), *First Article Approval-Contractor Testing*, and *Alternate II* of the clause at [52.209-4](#), *First Article Approval-Government Testing*). Costs incurred based on this authorization are allocable to the contract for—

(a) Progress payments; and

(b) Termination settlements if the contract is terminated for the convenience of the Government.

9.306 Solicitation requirements.

Solicitations containing a testing and *approval* requirement shall-

(a) Provide, in the circumstance where the contractor is to be responsible for the *first article approval* testing-

(1) The performance or other characteristics that the *first article must* meet for *approval*;

(2) The detailed technical requirements for the tests that *must* be performed for *approval*;
and

(3) The necessary data that *must* be submitted to the Government in the *first article approval* test report;

(b) Provide, in the circumstance where the Government is to be responsible for the *first article approval* testing-

(1) The performance or other characteristics that the *first article must* meet for *approval*; and

(2) The tests to which the *first article* will be subjected for *approval*;

(c) Inform *offerors* that the requirement *may* be waived when *supplies* identical or similar to those called for have previously been delivered by the *offeror* and accepted by the Government (see

52.209-3(h) and 52.209-4(i));

(d) Permit the submission of alternative *offers*, one including testing and *approval* and the other excluding testing and *approval* (if eligible under paragraph (c) of this section);

(e) State clearly the *first article's* relationship to the contract quantity (see paragraph (e) of the clause at 52.209-3, *First Article Approval-Contractor Testing*, or 52.209-4, *First Article Approval-Government Testing*);

(f) Contain a delivery schedule for the production quantity (see 11.403). The delivery schedule *may-*

(1) Be the same whether or not testing and *approval* is waived; or

(2) Provide for earlier delivery when testing and *approval* is waived and the Government desires earlier delivery. In the latter case, any resulting difference in delivery schedules *shall* not be a factor in evaluation for award. The clause at 52.209-4, *First Article Approval-Government Testing*, *shall* contain the delivery schedule for the *first article*;

(g) Provide for the submission of contract numbers, if any, to document the *offeror's* eligibility under paragraph (c) of this section;

(h) State whether the approved *first article* will serve as a manufacturing standard;

(i) Include, when the Government is responsible for *first article testing*, the Government's estimated testing costs as a factor for use in evaluating *offers* (when appropriate); and

(j) Inform *offerors* that the prices for *first articles* and *first article* tests in relation to production quantities *shall* not be materially unbalanced (see 15.404-1(g)) if *first article* test items or tests are to be separately priced.

9.307 Government administration procedures.

(a) Before the contractor ships the *first article*, or the *first article* test report, to the Government laboratory or other activity responsible for *approval* at the address specified in the contract, the *contract administration office shall* provide that activity with as much advance notification as is feasible of the forthcoming *shipment*, and-

(1) Advise that activity of the contractual requirements for testing and *approval*, or evaluation, as appropriate;

(2) Call attention to the notice requirement in paragraph (b) of the clause at 52.209-3, *First Article Approval-Contractor Testing*, or 52.209-4, *First Article Approval-Government Testing*; and

(3) Request that the activity inform the *contract administration office* of the date when testing or evaluation will be completed.

(b) The Government laboratory or other activity responsible for *first article testing* or evaluation *shall* inform the *contracting office* whether to approve, conditionally approve, or disapprove the *first article*. The *contracting officer shall* then notify the contractor of the action taken and furnish a copy of the notice to the *contract administration office*. The notice *shall* include the *first article shipment*

number, when available, and the applicable *line item number*. Any changes in the drawings, designs, or specifications determined by the *contracting officer* to be necessary shall be made under the Changes clause, and not by the notice of *approval*, conditional *approval*, or disapproval furnished the contractor.

9.308 Contract clauses.

9.308-1 Testing performed by the contractor.

(a)

(1) The *contracting officer* shall insert the clause at 52.209-3, *First Article Approval-Contractor Testing*, in *solicitations* and contracts when a fixed-price contract is contemplated and it is intended that the contract require-

(i) *First article approval*; and

(ii) That the contractor be required to conduct the *first article testing*.

(2) If it is intended that the contractor be required to produce the *first article* and the production quantity at the same facility, the *contracting officer* shall use the clause with its *Alternate I*.

(3) If it is necessary to authorize the contractor to purchase material or to commence production before *first article approval*, the *contracting officer* shall use the clause with its *Alternate II*.

(b)

(1) The *contracting officer* shall insert a clause substantially the same as the clause at 52.209-3, *First Article Approval—Contractor Testing*, in *solicitations* and contracts when a cost-reimbursement contract is contemplated and it is intended that the contract require

(i) *First article approval* and

(ii) That the contractor be required to conduct the *first article test*.

(2) If it is intended that the contractor be required to produce the *first article* and the production quantity at the same facility, the *contracting officer* shall use a clause substantially the same as the clause at 52.209-3, *First Article Approval—Contractor Testing*, with its *Alternate I*.

(3) If it is necessary to authorize the contractor to purchase material or to commence production before *first article approval*, the *contracting officer* shall use a clause substantially the same as the clause at 52.209-3, *First Article Approval—Contractor Testing*, with its *Alternate II*.

9.308-2 Testing performed by the Government.

(a)

(1) The *contracting officer shall* insert the clause at 52.209-4, *First Article Approval-Government Testing*, in *solicitations* and contracts when a fixed-price contract is contemplated and it is intended that the contract require *first article approval* and that the Government will be responsible for conducting the *first article* test.

(2) If it is intended that the contractor be required to produce the *first article* and the production quantity at the same facility, the *contracting officer shall* use the basic clause with its *Alternate I*.

(3) If it is necessary to authorize the contractor to purchase material or to commence production before *first article approval*, the *contracting officer shall* use the basic clause with its *Alternate II*.

(b)

(1) The *contracting officer shall* insert a clause substantially the same as the clause at 52.209-4, *First Article Approval-Government Testing*, in *solicitations* and contracts when a cost-reimbursement contract is contemplated and it is intended that the contract require *first article approval* and that the Government be responsible for conducting the *first article* test.

(2) If it is intended that the contractor be required to produce the *first article* and the production quantity at the same facility, the *contracting officer shall* use a clause substantially the same as the clause at 52.209-4, *First Article Approval-Government Testing*, with its *Alternate I*.

(3) If it is necessary to authorize the contractor to purchase material or to commence production before *first article approval*, the *contracting officer shall* use a clause substantially the same as the clause at 52.209-4, *First Article Approval-Government Testing*, with its *Alternate II*.