

## 46.703 Criteria for use of warranties.

The use of *warranties* is not mandatory. In determining whether a *warranty* is appropriate for a specific *acquisition*, the *contracting officer shall* consider the following factors:

(a) *Nature and use of the supplies or services*. This includes such factors as-

- (1) Complexity and function;
- (2) Degree of development;
- (3) State of the art;
- (4) End use;
- (5) Difficulty in detecting defects before acceptance; and
- (6) Potential harm to the Government if the item is defective.

(b) *Cost*. *Warranty* costs arise from-

- (1) The contractor's charge for accepting the deferred liability created by the *warranty*; and
- (2) Government administration and enforcement of the *warranty* (see paragraph (c) of this section).

(c) *Administration and enforcement*. The Government's ability to enforce the *warranty* is essential to the effectiveness of any *warranty*. There *must* be some assurance that an adequate administrative system for reporting defects exists or can be established. The adequacy of a reporting system *may* depend upon such factors as the-

- (1) Nature and complexity of the item;
- (2) Location and proposed use of the item;
- (3) Storage time for the item;
- (4) Distance of the using activity from the source of the item;
- (5) Difficulty in establishing existence of defects; and
- (6) Difficulty in tracing responsibility for defects.

(d) *Trade practice*. In many instances an item is customarily warranted in the trade, and, as a result of that practice, the cost of an item to the Government will be the same whether or not a *warranty* is included. In those instances, it would be in the Government's interest to include such a *warranty*.

(e) *Reduced requirements*. The contractor's charge for assumption of added liability *may* be partially or completely offset by reducing the Government's contract quality assurance requirements where the *warranty* provides adequate assurance of a satisfactory product.

**Parent topic:** [Subpart 46.7 - Warranties](#)