

46.803 Policy.

(a) *General*. The Government will generally act as a self-insurer by relieving contractors, as specified in this subpart, of liability for loss of or damage to property of the Government that (1) occurs after acceptance of *supplies* delivered or services performed under a contract and (2) results from defects or deficiencies in the *supplies* or services. However, the Government will not relieve the contractor of liability for loss of or damage to the contract end item itself, except for *high-value items*.

(b) *High-value items*. In contracts requiring delivery of *high-value items*, the Government will relieve contractors of contractual liability for loss of or damage to those items. However, this relief *shall* not limit the Government's rights arising under the contract to-

(1) 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 a *high-value item* occurs; or

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

(c) *Exception*. The Government will not provide contractual relief under paragraphs (a) and (b) of this section when contractor liability can be preserved without increasing the contract price.

(d) *Limitations*. Subject to the specific terms of the limitation of liability clause included in the contract, the relief provided under paragraphs (a) and (b) of this section does not apply-

(1) To the extent that contractor liability is expressly provided under a *contract clause* authorized by this regulation;

(2) When a defect or deficiency in, or Government's acceptance of, the *supplies* or services results from willful misconduct or lack of good faith on the part of the contractor's managerial personnel; or

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

Parent topic: Subpart 46.8 - Contractor Liability for Loss of or Damage to Property of the Government