



DEPARTMENT OF VETERANS AFFAIRS  
DEPUTY ASSISTANT SECRETARY FOR ACQUISITION AND MATERIEL MANAGEMENT  
WASHINGTON DC 20420

IL 049-05-9  
April 4, 2005

**OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT INFORMATION LETTER**

**TO:** Under Secretaries for Health and Memorial Affairs; Assistant Secretary for Management; Chief Facilities Management Officer, Office of Facilities Management; Veterans Integrated Service Network Directors; Directors, VA Medical Center Activities, Domiciliary, Outpatient Clinics, and Medical and Regional Office Centers; Directors, Denver Distribution Center, Austin Automation Center, Records Management Center, and VA Health Administration Center; and the Executive Director and Chief Operating Officer, VA National Acquisition Center

**ATTN:** Head of the Contracting Activity, VA Contracting Officers

**SUBJ:** Guidelines on the Use of Guarantee Period Services

1. The purpose of this Information Letter (IL) is to provide general guidelines on the use of guarantee period services provisions in construction contracts that include contractor-furnished, contractor-installed equipment. Guarantee period services are equipment maintenance services which are directly associated with preserving and protecting a specified piece of contractor-installed equipment that is guaranteed under a construction contract. The concept is similar to maintenance requirements that must be met to ensure proper performance under a new car warranty. The contracting officer may determine, when in the best interest of the Department of Veterans Affairs (VA), that guarantee period services, not to exceed a period of 5 years, are appropriate to protect the integrity of the installed equipment and to ensure that the equipment performs as guaranteed. This IL replaces expired Circular 005-89-4, Guidelines for Use of Guaranty Period Services, dated August 21, 1989.

2. Background.

a. Historically, VA has found that certain complex, contractor-installed, high-dollar value equipment, such as elevators and fire alarm systems, do not always function as expected after the initial guaranty has expired. To address this problem, the Office of Facilities Management (OFM), the Office of the General Counsel (OGC), and the Office of Acquisition and Materiel Management (OA&MM), developed guidelines, VA Acquisition Regulation clauses, and contract specifications to assist contracting officers in the administration of construction contracts with new long-term equipment

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guaranties. Specifications for certain high-dollar or traditionally troublesome equipment were designed to allow for the original installer of the equipment to service the equipment throughout the guaranty period. This follow-on maintenance is performed as a severable part of the construction contract. For contracts awarded by OFM, administration of that portion of the contract may be delegated by the OFM contracting officer to a contracting officer at the field facility where the equipment is located if responsibility for contract administration is not already there.

b. For a number of years, VA has been including requirements for extended guaranties and guarantee period services in some of its contracts involving the installation of new equipment, primarily elevators and fire alarms. Because of the tendency of these installations to have problems arise that need resolution in the first few years after installation, the guaranties on these types of equipment become vital. Guarantee period services that protect the viability of the guaranty are also considered crucial and a necessary expense to the construction project. While it has been our position that guarantee period services are an allowable construction cost, Congress has specifically authorized them as a proper item to be charged to major and minor construction appropriations in past years. These costs are also considered a necessary expense of the project in non-recurring maintenance (NRM) projects and can be included in the NRM project cost.

### 3. Guaranty Requirements.

a. The maintenance and guarantee period services cannot extend beyond the guaranty period and cannot exist without a valid guaranty. It is essential to remember that if there is no intact guaranty, there can be no maintenance or guarantee period services. Therefore, there can be no maintenance or guarantee period services performed on equipment which does not have a guaranty or on which the guaranty has expired. The contracting officer must ensure that, for all solicitations that include guarantee period services, the solicitation includes a specific separate guaranty requirement for the covered equipment that extends to the full period of the guarantee period services.

b. Guarantee period services are not to be confused with the 1-year general construction guaranty clause found in Federal Acquisition Regulation (FAR) clause 52.246-21, Warranty of Construction.

4. Guarantee period services for up to 5 years may be included in solicitations for the following types of equipment and in conjunction with the referenced approved specifications listed below:

a. Washers: VA Master Specification Section 11714, Medical Washing Systems.

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b. Fire Alarms: VA Master Specification Section 13850, Fire Alarm Systems.

c. Conveying Systems (elevators, dumbwaiters, pneumatic tube and tote box conveyors, etc.): VA Master Specification Sections 14120 through 14510 and Sections 14580 through 14582.

d. Communication Systems: VA Master Specification Section 16760, Intercommunication System; Section 16761, Audio-Visual Nurse Call and Code One Systems and Equipment; Section 16762, Dental Clinic Intercommunication and Patient Annunciation System; and Section 16771, Radio Entertainment Distribution System.

For copies of the specifications for guarantee period services listed above, or for approval for specifications other than those referenced, go to OFM's Technical Information Library at [http://vaww.va.gov/facmgt/standard/spec\\_idx.asp](http://vaww.va.gov/facmgt/standard/spec_idx.asp) or contact OFM for assistance. Concurrence of the OGC is required prior to specifying guarantee period services in any specifications that are not included in the above list. See paragraph 16 regarding mandatory legal review.

5. Guarantee period services are appropriate when there are critical maintenance activities that are clearly beyond the skills and training of currently employed Government personnel. These services may also be specified when there is evidence that they would substantially extend the life expectancy of equipment. Guarantee period services should not be used merely to augment Government maintenance work forces or in situations where Government personnel can receive adequate maintenance training through operating manuals and orientation. Guarantee period services should not be required for minor extensions or expansions of existing systems.

6. The guarantee period and related services shall be limited in length to that required to complete necessary adjustments and assure adequate operation of equipment after acceptance of the construction. Specifications should limit the frequency of service to that which is required for achieving generally satisfactory equipment operation.

7. Special attention should be given to drafting specification provisions which clearly set forth the job tasks that are expected to be performed as part of the guarantee period services portion of the contract. In the past, these service-type requirements were contained in service contracts and were not usually contained in the construction contract. Since the contractor will be bound to perform only the tasks specified, care should be taken to clearly articulate which tasks are required.

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8. In order to ensure and enforce satisfactory performance by the installer during the guarantee period services portion of the construction contract, the contract must contain the latest relevant technical specifications which include guarantee period services and the particular VAAR clauses that reference guarantee period services.

9. The following FAR and VAAR clauses must be included in all contracts containing guarantee period services:

- a. FAR 52.246-21, Warranty for Construction;
- b. VAAR 852.246-1, Special Warranties;
- c. VAAR 852.246-2, Warranty for Construction – Guarantee Period Services;  
and

- d. Either VAAR 852.236-82, Payments Under Fixed-Price Construction Contracts (without NAS), with its Alternate I, or VAAR 852.236-83, Payments Under Fixed-Price Construction Contracts (with NAS), with its Alternate I.

10. The applicable FAR Service Contract Act clauses and applicable wage determination must be included in the solicitation since they will apply to the guarantee period services portion of the contract. Guarantee period services must be included in the original scope of work for the contract.

11. Existing contracts without guarantee period services cannot legally be modified to include guarantee period services because it would constitute a scope change, and the rationale that it is a necessary expense for maintaining the guaranty cannot be made.

12. Guarantee period services can extend no longer than the length of the guaranty. Although the guaranty period for a construction project as a whole is 1 year, longer periods must be specified in individual specification sections to cover particular types of equipment or work that are to be covered by the guarantee period services provisions of the contract (not to exceed 5 years). The contract shall require a guaranty for the entire period of the guarantee period services (not to exceed 5 years) for all of the equipment covered by the guarantee period services.

13. The contract shall require the original installer of the equipment to provide the guarantee period services.

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14. The payment clause requires the prime contractor, at the time of contract award, to furnish the total cost and the number of work hours required to perform the guarantee period services in accordance with the specifications. These costs should be evaluated and found to be reasonable. The payment clause also provides the contracting officer the right to withhold payments should performance be unsatisfactory.
15. Performance and payment bond coverage is required for the guaranty portion of the contract. The value of the bonds may be adjusted downward for the guaranty portion of the contract as long as the coverage still complies with the minimum requirements set forth in FAR clause 52.228-15, Performance and Payment Bonds – Construction, based on the value of the guarantee period services portion of the contract.
16. Due to the novel nature of these services, all proposed contracts containing guarantee period services provisions, regardless of dollar value, shall be forwarded for legal/technical review prior to issuance of a solicitation (see VAAR 801.602-70).
17. The contract may be modified to allow payment via the certified invoice method instead of the progress payment method for the guarantee period services portion of the contract. Before payment of any type is made, inspection by appropriate personnel should occur to ensure the service is in fact being provided. The switch from progress payments to the invoice method can be accomplished by contract modification if the contract specifies the progress payment methodology. This modification can be set forth either on the partial final payment/release document or on an SF-30.
18. Payment for guarantee period services will be made monthly by the facility via certified invoice after the covered services have been performed.
19. Contracting Officers should take steps to inform prospective bidders of the time frames of the contract, both for the construction portion of the contract and for the guarantee period services portion of the contract. This can be done in blocks 10 and 11 of the SF 1442. Guarantee period services are not bid alternates, and the solicitation should clearly state this fact.
20. The term of the guarantee period services begins "after completion and acceptance of the elevator (or whatever equipment is covered) installation" which is when the guaranty on the equipment begins.

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21. Once the construction portion of the contract is completed, the contracting officer should take steps to "close out" the construction portion of the contract. This can be accomplished by executing a partial final payment. In this partial final payment/release document, the contractor should clearly agree that the construction portion of the contract is complete and final and that both parties are giving up any rights to file claims under the construction portion of the contract. Needless to say, the parties would still have rights under the guaranty clause and under other principles which survive final payment (e.g., latent defects). In making the final payment on the construction portion of the contract, the contracting officer should also take care that the document which is executed does not eliminate any of the rights of the parties contained in the body of the contract, i.e., changes, default, inspection, disputes, clauses, etc. Only the technical portions which describe the construction work should be finalized, and only those technical portions should be the subject of the release. A sample "Partial Final Payment and Release of Claim" is attached to this IL.

22. The entire contract may not be closed out until all guarantee period services have been performed or the contract is otherwise terminated.

23. Please direct any questions regarding the above to Don Kaliher, Acquisition Policy Division, at (202) 273-8819, or to Thomas J. Cooper, Acquisition Assistance Team, at (414) 902-5405.



 Thomas J. Cooper  
Acting Director  
Acquisition Resources Service

Attachment

Distribution: RPC 7029



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Attachment 1

- B. Fire Alarm System  
Section 13850, Paragraph 1.6  
Accepted on: \_\_\_\_\_ 24 months @ \_\_\_\_\_ per month
- C. Visual Nurse Call System  
Section 16761, Paragraph 3.4  
Accepted on: \_\_\_\_\_ 36 months @ \_\_\_\_\_ per month
- D. Public Address System  
Section 16770, Paragraph 3.4  
Accepted on: \_\_\_\_\_ 36 months @ \_\_\_\_\_ per month
- E. Radio Entertainment Distribution  
(RED) System  
Section 16771, Paragraph 1.5  
Accepted on: \_\_\_\_\_ 36 months @ \_\_\_\_\_ per month

4. Upon payment of the last payment for each of the systems covered by guarantee period service all obligations of the contractor to perform further services and all obligations of the Government to make further payments shall cease with the exception of rights and liabilities associated with defects, guaranties, or warranties relating to any activities or component parts furnished to the Government under the contract or agreement.

\_\_\_\_\_  
Contracting Officer

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date