

PART 18
QUALITY ASSURANCE

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18.1 RESPONSIBILITY FOR QUALITY.

POLICY: The Contractor is responsible for quality. BPA is not obligated to pay for the Contractor's cost of correcting work (including work performed under cost reimbursement contracts) which does not meet the requirements of the contract. Therefore, specifications or statements of work should clearly state the standards of acceptance by which the Contractor's work will be measured.

18.2 (RESERVED).

18.3 INSPECTION AND ACCEPTANCE.

INFORMATION: "Inspection" is the act of determining whether deliverables conform to the contract requirements. "Acceptance" is the recognition that deliverables conform to the contract and the passing of responsibility for the product or service from the Contractor to BPA. Other contract clauses sometimes refer to "the date of acceptance" as a benchmark for taking action (e.g., payment, warranty, latent defects, consequential damages, etc.) When this is the case, it is important that the CO clearly describe in the contract the timing and conditions of acceptance, unless the risk of negative consequences is low.

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18.3.1 Clause Usage Prescriptions.

PROCEDURE:

(a) The CO shall include a clause similar to that at 18-1, Inspection and Acceptance - Commercial Supplies/Services in all solicitations and contracts of any dollar amount for commercial supplies and commercial services , unless a clause similar to 18-2, Inspection - Supplies is used..

(b) The CO shall include a clause similar to that at 18-2, Inspection - Supplies, in solicitations and contracts for supplies which will be manufactured in accordance with a BPA specification. The CO may substitute a paragraph similar to (d) of Alternate I if, based on past history, the CO wants the right to make immediate correction of non-conforming supplies without notice to the Contractor and charge the Contractor for BPA's costs.

(c) The CO shall include a clause similar to that at 18-3, Acceptance - Supplies, in solicitations and contracts for supplies which will be manufactured in accordance with a BPA specification. The CO should consider increasing the 60 day constructive acceptance period cited in the clause if freight terms are FOB origin and shipment will require more than a few days.

(d) The CO shall include a clause similar to that at 18-4, Inspection - Services and Construction, in solicitations and contracts for services over \$50,000 (except commercial services) or for construction under \$50,000 and commercial construction for any amount.

(e) The CO shall include a clause similar to that at 18-5, Inspection and Acceptance - Construction, in all contracts for construction over \$50,000, except for commercial construction.

18.4 RESPONSIBILITY FOR DAMAGE OR LOSS OF SUPPLIES.

(a) **POLICY:** CO's shall specify the FOB point in supply contracts based on the particular risks associated with the purchase.

(b) **INFORMATION:** Where FOB destination is specified, the Contractor retains responsibility for damage or loss of supplies until delivery to BPA. BPA is responsible for any damage or loss to conforming goods after delivery (including the period between delivery and acceptance or rejection.) Although FOB destination is typically more advantageous to BPA where loss or damage of the supplies would result in substantial cost to BPA, other terms may be appropriate for low dollar transactions or in other instances if the CO deems appropriate. Special FOB terms are appropriate for Design-Supply-Construct contracts and Furnish-and-Install contracts because the Contractor should retain responsibility for damage or loss of supplies after delivery to the site but before acceptance.

18.4.1 Clause Usage Prescriptions.

PROCEDURE: The CO shall include a clause similar to Clause 18-6, Responsibility For Damage Or Loss Of Supplies, in Design-Supply-Construct contracts and Furnish-and-Install solicitations and contracts over \$50,000.

18.5 WARRANTIES.

(a) **INFORMATION:** The Uniform Commercial Code (UCC) provides substantial warranty protection to buyers. Most commercial Contractors are familiar with its provisions. Although the UCC has been written for the purchase of supplies, it can be applied to services as well. The BPI takes advantage of the UCC's warranty provisions by using them for purchases of commercial supplies and services. This is the only portion of UCC incorporated into BPA contracts.

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(b) **INFORMATION:** Special warranty clauses whose terms substantially differ from those typically offered by suppliers to their customers will likely result in a higher contract cost/price. The decision to include a special warranty provision in a contract is a business decision. COs should consider the standard market practices for each commodity as well as the costs and benefits to BPA when making that decision. Most special warranty clauses described in the BPI for use with supplies or equipment use the date of receipt (rather than the date of acceptance) to start the warranty period. COs should be aware of this when drafting contracts.

(c) **POLICY:** When purchasing commercial supplies or services, BPA will generally rely on the warranty provisions of the Uniform Commercial Code.

(d) **INFORMATION:** The following selected portions of the UCC apply to warranties of merchantability and suitability for a particular purpose. They have not been edited. See Section 2 of UCC for additional information.

UCC §2-314. Implied Warranty: Merchantability; Usage of Trade.

(1) Unless excluded or modified (Section 2-316), a warranty that the goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind.

(2) Goods to be merchantable must be at least such as:

- (a) pass without objection in the trade under the contract description; and
- (b) in the case of fungible goods, are fair average quality within the description; and
- (c) are fit for the ordinary purposes for which such goods are used; and
- (d) run, within the variations permitted by the agreement, of even kind, quality and quantity within each unit and among all units involved; and
- (e) are adequately contained, packaged, and labeled as the agreement may require; and
- (f) conform to the promises or affirmations of fact made on the container or label if any.

(3) Unless excluded or modified (Section 2-316), other implied warranties may arise from course of dealing or usage of trade.

UCC § 2-315. Implied Warranty: Fitness for Particular Purpose.

Where the seller at the time of contracting has reason to know any particular purpose for which the goods are required and that the buyer is relying on the seller's skill or judgment to select or furnish suitable goods, there is, unless excluded or modified under the next section (Section 2-316), an implied warranty that the goods shall be fit for such purpose.

18.5.1 Clause Usage Prescriptions.

PROCEDURE:

(a) The CO shall include a clause similar to that at 18-7, Warranty - Commercial Supplies And Services, in solicitations and contracts, except construction, under \$50,000, and in solicitations and contracts of any dollar amount for commercial supplies and commercial services.

(b) The CO shall include a clause similar to that at 18-8, Warranty – Supplies, in solicitations and contracts for supplies other than heavy electrical supplies, tower steel, or commercial supplies and services. For Design-Supply-Construct contracts and Furnish-and-Install contracts, the clause should be modified so that the warranty begins upon acceptance rather than delivery.

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(c) The CO shall include a clause similar to that at 18-9, Warranty - Heavy Electrical Equipment, in solicitations and contracts for heavy electrical equipment or other circumstances where BPA wants to retain the ability to correct defective equipment itself rather than require the Contractor to do so. The clause may be modified to shift responsibility for transit of the equipment or removal of adjacent equipment to BPA rather than the Contractor. For Design-Supply-Construct contracts and Furnish-and-Install contracts, the clause should be modified so that the warranty begins upon acceptance rather than delivery (Fill-in current BPA overhead percentages).

(d) The CO shall include a clause similar to that at 18-10, Warranty - Tower Steel, in solicitations and contracts for tower steel.

(e) The CO may include a clause similar to that at 18-11, Warranty - Services, in solicitations and contracts for services exceeding \$50,000 except for commercial services.

(f) The CO shall include a clause similar to either that at 18-12, Warranty - Construction, or that at 18-13, Warranty - Small Construction Contracts, in solicitations and contracts for construction.

18.6 DEFECTS AND CONSEQUENTIAL DAMAGES.

(a) **DEFINITIONS:**

"Patent defects" are defects which are plainly visible or which can be discovered by reasonable inspection or customary tests. An example would be the delivery of incorrectly-colored suspension insulators. After payment has been made, BPA is only able to recover for patent defects if the contract includes a warranty clause. This places significant importance on the inspection conducted before supplies or services are accepted. If reasonable inspection should have detected the defect, and it did not, BPA may bear the risk of loss.

"Latent defects" are defects which are not plainly visible and which cannot be determined by reasonable inspection or customary tests, and which are unknown to BPA when the item is accepted. An example would be the use of the wrong electronic component in a computer system. If reasonable inspection would not have detected the defect, the Contractor bears the risk of loss. This concept protects BPA from the risk of accepting supplies/services that contain hidden defects that cannot easily be located or identified.

"Consequential damages" are damages that result indirectly from either patent or latent defects. An example would be damage to a piece of equipment due to failure of another piece of equipment.

(b) **INFORMATION:** Unless BPA has another contract with a vendor from which to offset the costs, or access to another administrative offset, in most cases, BPA can make a claim for latent defects and consequential damages discovered after acceptance, only if the claim is made within six (6) years after the date the defect is discovered or should have been discovered, whichever occurs first. A clause is not required in the contract in order for BPA to exercise this right. In certain instances, the long service life of some types of equipment results in a high risk of loss to manufacturers from a latent defect. As a result, some offerors may include a contingency factor in their offers to cover such potential liabilities. Placing a limitation in the contract on the Contractor's liability for latent defects and for consequential damages clarifies and limits the offeror's potential exposure. This should result in the lowering of offered cost/price.

(c) **PROCEDURE:** The CO shall consult with general counsel and risk management office prior to making a claim for a latent defect and for consequential damages. The CO may consult with general counsel and risk management to determine whether to limit the Contractor's liability for latent defects, or to limit their liability for consequential damages, or both.

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18.6.1 Clause Usage Prescriptions.

PROCEDURE:

(a) The CO may include a clause similar to that at 18-14, Limitation Of Liability For Latent Defects, in contracts if, during negotiations, the offeror raises the issue and the CO agrees that their liability should be limited.

(b) The CO may include a clause similar to that at 18-15, Limitation of Liability for Consequential Damages, if, during negotiations, the offeror raises the issue and the CO agrees that their liability should be limited.

18.50 CLAUSES.

The following clauses are referred to in BPI Part 18:

- 18-1 Inspection And Acceptance - Commercial Supplies/Services
- 18-2 Inspection - Supplies
- 18-3 Acceptance- Supplies
- 18-4 Inspection - Services and Construction
- 18-5 Inspection And Acceptance - Construction
- 18-6 Responsibility For Damage Or Loss Of Supplies
- 18-7 Warranty - Commercial Supplies And Services
- 18-8 Warranty - Supplies
- 18-9 Warranty - Heavy Electrical Equipment
- 18-10 Warranty - Tower Steel
- 18-11 Warranty - Services
- 18-12 Warranty - Construction
- 18-13 Warranty - Small Construction Contracts
- 18-14 Limitation Of Liability For Latent Defects
- 18-15 Limitation Of Liability For Consequential Damages

Clause 18-1 INSPECTION AND ACCEPTANCE - COMMERCIAL SUPPLIES/SERVICES (May 11)(BPI 18.3.1)

(a) The Contractor shall only tender for acceptance those items or services that conform to the requirements of this contract. BPA reserves the right to inspect or test any supplies or services that have been tendered for acceptance. BPA may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, BPA may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. BPA must exercise its post-acceptance rights --

- (1) Within a reasonable time after the defect was discovered or should have been discovered; and
- (2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(End of clause)

Clause 18-2 INSPECTION - SUPPLIES (Sep 98)(BPI 18.3.1)

(a) The Contractor shall provide and maintain a quality system covering supplies ("supplies" includes equipment, fabrication processes, raw materials, and intermediate assemblies) in accordance with Unit 4 of this contract.

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(b) BPA may inspect and test all supplies called for by the contract at any place and time. If inspection and tests are performed on the Contractors' site, the Contractor shall provide BPA reasonable facilities and assistance. Except as otherwise provided in the contract, BPA shall bear the expense of BPA inspections or tests made at other than the Contractor's or subcontractor's premises; provided that, in case of rejection, BPA shall not be liable for any reduction in the value of inspection or test samples. BPA is not obligated to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in this contract. BPA will perform inspections and tests in a manner that will not unduly delay the work.

(c) The Contractor may be charged for BPA's costs of inspection if supplies are not ready at the time specified by the contract for inspection and tests or where prior rejection makes reinspection and retesting necessary. If the Contractor fails to perform tests required by the contract, BPA may perform the tests and charge the Contractor for the costs of such.

(d) BPA may either reject or require correction of nonconforming supplies.

(e) If this contract provides for inspection at the factory (see Unit 4), supplies shall not be shipped until all factory tests and inspections have been made and the supplies released by BPA's Contracting Officer's Technical Representative (COTR), unless waived in writing by the Contracting Officer or an authorized representative.

(1) If the BPA COTR exercises BPA's right of inspection at the factory, then the materials and equipment will not be reinspected at destination other than for shipping damage and shortages; however, this will apply only to (i) those items specifically inspected at the factory, and (ii) those characteristics and attributes which are verified during factory inspection.

(2) Factory inspection and release for shipment shall not constitute acceptance of the contract items by BPA.

(f) Inspections and tests by BPA do not relieve the Contractor of responsibility for defects or other failures to meet contract requirements discovered before acceptance. Lack of inspection by BPA shall not relieve the Contractor of any obligations under this contract.

(End of clause)

Alternate I (Oct 05)

(d) BPA may either reject or require correction of nonconforming supplies. If immediate correction of nonconforming supplies would tend to mitigate damages, or if time limitations will not permit correction by the Contractor, BPA may proceed with such necessary correction, without prior notice to the Contractor of action taken, and the contract price shall be reduced by the total amount of the costs for correcting the supplies or equipment as determined by BPA. Such contract price reduction shall be based on BPA's direct labor and material costs for the corrective work plus the labor and material overhead rates in effect at the time work is performed.

(End of Alternate I)

Clause 18-3 ACCEPTANCE - SUPPLIES (Sep 98)(BPI 18.3.1)

Unless explicitly accepted or rejected earlier, acceptance shall occur 60 days after date of delivery. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in this contract.

(End of clause)

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Clause 18-4 INSPECTION - SERVICES AND CONSTRUCTION (Sep 98)(BPI 18.3.1)

(a) BPA may inspect the work called for by the contract at any time and place. BPA will perform inspections in a manner that will not unduly delay the work.

(b) If any of the services do not conform with contract requirements (including services performed on a cost-reimbursement or time-and-materials basis), BPA may require the Contractor to perform the services again in conformity with the contract at no cost to BPA. When the defects in services cannot be corrected by re-performance, BPA may deduct from the contract payments an amount which reflects the reduced value of the services performed.

(c) Neither inspection, lack of inspection, acceptance, nor payment shall relieve the Contractor of any of its obligations under this contract.

(End of clause)

Clause 18-5 INSPECTION AND ACCEPTANCE - CONSTRUCTION (Sep 98)(BPI 18.3.1)

(a) Definition. "Work" includes, but is not limited to, materials, workmanship, and manufacture and fabrication of components.

(b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. The Contractor shall maintain complete inspection records and make them available to BPA. All work shall be conducted under the general direction of the Contracting Officer and is subject to BPA inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.

(c) BPA inspections and tests are for the sole benefit of BPA and do not--
(1) Relieve the Contractor of responsibility for providing adequate quality control measures;
(2) Relieve the Contractor of responsibility for damage to or loss of the material before acceptance;
(3) Constitute or imply acceptance; or
(4) Affect the continuing rights of BPA after acceptance of the completed work under paragraph (i) below.

(d) The presence or absence of a BPA inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specification without the Contracting Officer's written authorization.

(e) The Contractor shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. BPA may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes reinspection or retest necessary. BPA shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.

(f) The Contractor shall, without charge, replace or correct work found by BPA not to conform to contract requirements, unless in the public interest BPA consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from BPA property.

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(g) If the Contractor does not promptly replace or correct rejected work, BPA may (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor, and may (2) terminate for default the Contractor's right to proceed.

(h) If, before acceptance of the entire work, BPA decides to examine already completed work by removing it or tearing it out, the Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, the Contracting Officer shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.

(i) Unless otherwise specified in the contract, acceptance by BPA will be in writing and shall be made as promptly as practicable after completion and inspection of all work required by the contract or that portion of the work the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or BPA's rights under any warranty or guarantee.

(End of clause)

Clause 18-6 RESPONSIBILITY FOR DAMAGE OR LOSS OF SUPPLIES (Sep 98)(BPI 18.4.1)

(a) The Contractor shall be responsible for the supplies covered by this contract until acceptance, at the designated site, regardless of the point of inspection.

(b) After delivery and installation at the designated site and prior to acceptance or rejection, BPA shall be responsible for the loss, destruction, or damage to the supplies only if such loss, destruction, or damage results from the negligence of officers, agents, or employees of BPA acting within the scope of their employment.

(c) The Contractor shall bear all risks as to rejected supplies after notice of rejection, except that BPA shall be responsible for the loss, or destruction of, or damage to the supplies only if such loss, destruction or damage results from the gross negligence of officers, agents, or employees of BPA acting within the scope of their employment.

(End of clause)

Clause 18-7 WARRANTY - COMMERCIAL SUPPLIES AND SERVICES (Sep 98)(BPI 18.5.1)

The Contractor's standard commercial warranty shall be deemed to be a part of this contract unless otherwise specified. If the Contractor does not have a standard warranty, the warranty provisions of UCC Article 2 shall apply.

(End of clause)

Clause 18-8 WARRANTY - SUPPLIES (Sept 98)(BPI 18.5.1)

(a) The Contractor warrants that the supplies ("supplies" includes equipment, fabrication processes, raw or finished materials, and intermediate assemblies) conform to contract requirements. The Contractor also warrants that supplies are free of design defects (except defects in BPA-provided final designs) and defects in materials or workmanship.

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(b) The Contractor shall replace or repair any supplies which fail in operation within 12 months from the date of receipt. The Contracting Officer will give written notice of any defect or nonconformance to the Contractor within a reasonable period of time after discovery. Replacements of contract items shall be made promptly and on an FOB destination basis. BPA will install replacements at no expense to the Contractor.

(c) Supplies replaced under the provisions of this warranty shall remain the property of BPA unless the Contractor wishes to obtain ownership. In this case, the Contractor shall notify BPA of such in writing not later than the date of receipt by BPA of the replacement supplies. The Contractor is responsible for packaging and shipping costs.

(d) The rights and remedies of BPA provided in this clause are in addition to and do not limit any rights afforded to BPA by any other clause of this contract or under applicable Federal or State law, including the Uniform Commercial Code.

(End of clause)

Clause 18-9 WARRANTY - HEAVY ELECTRICAL EQUIPMENT (Oct 05)(BPI 18.5.1)

(a) The Contractor warrants that all materials, equipment, and supplies (including replacements and corrective repairs) will conform to the requirements of this contract, will be reasonably fit for their intended use, and will be free from defects in materials, workmanship, and design (except BPA designs). The Contractor will not be liable for any deficiencies not discovered within 1 year from the date the equipment was placed in service. If installation of the equipment is delayed through no fault of the Contractor, the date of placing the equipment in service shall be presumed to be 240 days after the date the equipment was received at the specified contract destination.

(b) Correction or Replacement--

(1) Promptly after notice of deficiencies, the Contractor shall, as directed by BPA, either remove the materials, equipment, or supplies referred to in the notice and correct or replace and retest them, or correct and retest them in place.

(2) If immediate correction would tend to mitigate damages or if time limitations will not permit correction by the Contractor, BPA may proceed with such necessary correction, without prior notice to the Contractor.

(c) The Contractor shall bear the expense of removal, correction or replacement, transportation charges, and reinstallation and retesting, whether incurred by or on behalf of BPA or the Contractor. The cost of removal of any appurtenant equipment shall be the responsibility of the Contractor. If BPA performs the corrective work, the Contractor shall reimburse BPA for direct for the corrective work plus the labor and material overhead rates that are in effect at the time work is performed.

(d) The rights and remedies of BPA provided in this clause are in addition to and do not limit any rights afforded to BPA by any other clause of this contract or under applicable Federal or State law, including the Uniform Commercial Code.

(End of clause)

Clause 18-10 WARRANTY - TOWER STEEL (Sep 04)(BPI 18.5.1)

(a) The Contractor warrants that the supplies furnished under this contract are free of defects as to design, materials, or workmanship. The period of this warranty shall extend for 24 months after the last date of receipt of supplies.

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(b) The Contractor shall replace or repair defective supplies and shall provide replacements for shortages discovered during the warranty period. The Contracting Officer will give written notice of any defect to the Contractor within a reasonable period of time after discovery.

(c) If immediate correction of non-conforming supplies would tend to mitigate damages, or if time limitations will not permit correction by the Contractor, BPA may make corrections without prior notice to the Contractor. The Contracting Officer will notify the Contractor immediately after such corrections are initiated. The contract price shall be reduced (using the following formulas) for correcting each piece mark.

- (1) Deficiencies found prior to issuance to Construction Contractor.
 - (A) Minor Correction: $1.0 \times \text{Weight of piece mark (lbs.)} \times \text{Supply Contract price/lb.}$
 - (B) Replace: $2.5 \times \text{Weight of piece mark (lbs.)} \times \text{Supply Contract price/lb.}$
- (2) Deficiencies found during assembly:
 - (A) Minor Correction: $1.25 \times \text{Cost per each minor correction (see Note 1)}$
 - (B) Replace: $5.0 \times \text{Weight of piece mark (lbs.)} \times \text{Supply Contract price/lb.}$
- (3) Deficiencies found during or after erection:
 - (A) Minor Correction: $1.25 \times \text{Cost per each minor correction (see Note 1)}$
 - (B) Replace: $10.0 \times \text{Weight of piece mark (lbs.)} \times \text{Supply Contract price/lb.}$

Note 1. Cost per each minor correction: A minor correction is defined as (a) drilling or punching one hole, (b) enlarging one undersized hole by one-eighth inch or more, or (c) cutting one clip or one cope. BPA Line Construction Contracts provide for payment to the Construction Contractor for each minor correction as follows. These costs (with multiplier) are the responsibility of the Supply Contractor.

Thickness of Steel	Amount per Operation
3/16" through 7/16"	\$30.00
1/2" through 15/16"	\$50.00
1" or Greater	\$75.00

(d) Supplies replaced under the provisions of this warranty shall remain the property of BPA unless the Contractor wishes to obtain ownership. In this case, the Contractor shall notify BPA of such in writing not later than the date of receipt by BPA of the replacement supplies. The Contractor is responsible for packaging and shipping costs.

(e) The rights and remedies of BPA provided in this clause are in addition to and do not limit any rights afforded to BPA by any other clause of this contract or under applicable Federal or State law, including the Uniform Commercial Code.

(End of clause)

Clause 18-11 WARRANTY - SERVICES (Sep 98)(BPI 18.5.1)

(a) The Contractor warrants that all services performed under this contract will be performed in a professional manner, be free from defects in workmanship and conform to the requirements of this contract. The Contractor further warrants that any materials provided will be free from defects. This warranty is valid for 1 year from date of acceptance by BPA. The Contracting Officer will give written notice of any defect or nonconformance to the Contractor within a reasonable period of time after discovery.

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(b) Corrections shall be at no cost to BPA, and any services or materials corrected or reperformed by the Contractor shall be subject to this clause to the same extent as work initially performed.

(End of clause)

Clause 18-12 WARRANTY - CONSTRUCTION (Sep 98)(BPI 18.5.1)

(a) In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph (i) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.

(b) This warranty shall continue for a period of 1 year from the date of final acceptance of the work. If BPA takes possession of any part of the work before final acceptance, this warranty shall continue for a period of 1 year from the date BPA takes possession.

(c) The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to Government-owned or controlled real or personal property, when that damage is the result of -

- (1) The Contractor's failure to conform to contract requirements; or
- (2) Any defect of equipment, material, workmanship, or design furnished by the Contractor.

(d) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for 1 year from the date of repair or replacement.

(e) The Contracting Officer shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.

(f) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, BPA shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.

(g) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall--

- (1) Obtain all warranties that would be given in normal commercial practice;
- (2) Require all warranties to be executed, in writing, for the benefit of BPA, if directed by the Contracting Officer; and
- (3) Enforce all warranties for the benefit of BPA, if directed by the Contracting Officer.

(h) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by BPA nor for the repair of any damage that results from any defect in Government-furnished material or design.

(i) This warranty shall not limit BPA's rights under the Inspection and Acceptance clause of this contract with respect to latent defects, gross mistakes, or fraud.

(End of clause)

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Part 18 -- Quality Assurance

Clause 18-13 WARRANTY - SMALL CONSTRUCTION CONTRACTS (Sep 98)(BPI 18.5.1)

(a) The Contractor warrants that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.

(b) This warranty shall continue for a period of 1 year from the date of final acceptance of the work.

(c) The Contractor shall remedy at the Contractor's expense any failure to conform or any defect. If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, BPA shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.

(End of clause)

Clause 18-14 LIMITATION OF LIABILITY FOR LATENT DEFECTS (Sep 98)(BPI 18.6.1)

Unless otherwise specifically provided in this contract, the Contractor shall not be liable for latent defects discovered more than three years after the date of expiration of the warranty. BPA will notify the Contractor of any latent defects within a reasonable period after discovery.

(End of clause)

Clause 18-15 LIMITATION OF LIABILITY FOR CONSEQUENTIAL DAMAGES (Sep 98)(BPI 18.6.1)

The Contractor's liability for consequential damages shall be limited to the contract cost of the item, and from the date of receipt to the end of the three-year period following the expiration of the warranty. In the event that more than one item is furnished on a contract, the foregoing provision shall apply separately to each item. Consequential damages shall not include loss of revenue.

(End of clause)