

Federal Acquisition Regulation

9.306

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 con-

tracting 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 (1) progress payments and (2) 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 9.306(c));