

July 24, 2014

# A COR's Guide to Inspection and Acceptance

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One of the most important duties and responsibilities the contracting officer frequently delegates to the contracting officer's representative (COR) is inspection and acceptance of the contractor's work during contract performance. Inspection and acceptance are critical functions for several reasons. Inspection determines the acceptability (or nonacceptability) of the services or supplies furnished by the contractor. Acceptance is the government's acknowledgment that a particular contract output or product adequately meets the pertinent contract requirement. Thus, acceptance of an item entitles the contractor to payment and usually transfers the risk of loss of the work from the contractor to the government. Specific "inspection" clauses in many government contracts delineate the government's right to inspect and test the contractor's output, often including inspection of work in progress, at all stages of performance and wherever the work is being conducted.

Particularly for services requirements, the COR often will be the government's authorized representative or will have responsibility for overseeing and/or coordinating inspection activities. Therefore, the COR must fully understand what is stated in the contract about inspection and acceptance, in addition to understanding the responsibilities specified in the contracting officer's delegation letter. This will help ensure he or she properly and adequately carries out the inspection and acceptance functions that protect the government's rights with respect to receiving supplies and services that will meet its needs.

## What is inspection?

Federal Acquisition Regulation (FAR) part 2 defines "inspection" as "examining and testing supplies or services (including, when appropriate, raw materials, components, and intermediate assemblies) to determine whether they conform to contract requirements." Inspection must be:

- Adequate to safeguard the rights of the government
- Appropriate to the contracting procedure and contract type

In short, it is the primary means of ensuring the government gets what it pays for. Inspection during performance allows early discovery of defects, thus enabling timely corrective action, often in the most cost-effective manner. Early problem detection via in-process inspections also helps to minimize adverse impact to the schedule.

## What is the relationship between the inspection role/function and the quality assurance surveillance plan?

Although the quality assurance surveillance plan (QASP) sometimes is included as part of the contract, this is not required, and it is different from—but closely related to—the "inspection" clause and government inspection activities. The QASP provides guidance to all government contract oversight personnel with respect to their contract surveillance roles and responsibilities. Therefore, the QASP should fully incorporate and spell out the what, when, and who of exercising the government's contractual inspection rights, which frequently are established only in general terms within a contract inspection clause. A QASP's expanded information is important to ensure government personnel do not miss key inspection opportunities and that inspection procedures that would unreasonably interfere with performance or be wastefully duplicative are avoided. But the QASP also addresses more aspects of contract oversight and performance monitoring than just the inspection of outputs.

## What, then, is "acceptance"?

FAR 46.1 states that acceptance is "the act of an authorized representative of the Government by which the

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Government, for itself or as agent of another, assumes ownership of existing identified supplies tendered or approves specific services rendered as partial or complete performance of the contract.” Acceptance may be unconditional, which means the supplies or services are found to comply fully with the contract, or conditional, which means the government accepts “supplies or services that do not conform to contract quality requirements, or are otherwise incomplete, that the contractor is required to correct or otherwise complete by a specified date.”

Legally, conditional acceptance amounts to the government asserting that the item at issue is nonconforming but forgoing its right to outright rejection. Instead, when the deficiency is relatively minor or is discerned to be readily correctable, the government offers to accept the item upon the contractor’s satisfaction of a specific condition—most often direct correction of the deficiency/defect, although other conditions also may be imposed in specific circumstances. Conditional acceptance requires the involvement of the contracting officer, and generally agency legal counsel. However, the COR usually is in the best position to advise as to the seriousness of the deficiency/defect and the potential for correction. As such, the COR plays a key role in any determination as to rejection or conditional acceptance.

Acceptance is extremely important because the contractor’s right to payment depends on acceptance of the supplies and services by the government.

### How does the inspection process work?

The inspection process, as set forth in the FAR, is shown in Table 1 below.




The contract will contain the appropriate clauses and other information the COR should follow for inspection and acceptance (see sidebar on page 3). This includes clauses that give the government the right to inspect the supplies and services prior to acceptance and state where inspection will take place (origin or destination). FAR part 46 details procedures for inspection and acceptance and sets forth actions the government should take in various circumstances.

### How does the COR ensure adequate and appropriate inspection procedures?

First, know what the contract requires. The COR’s duties for inspection and acceptance generally are spelled out in the contracting officer’s delegation letter; however, the written language of the contract rules, so the COR should familiarize himself or herself with all terms and conditions. The COR may perform inspections by using several techniques and procedures, including spot checks, scheduled inspections of functions performed by the contractor on a periodic basis, random sampling of routine functions or work products, contract monitoring and user reports, and periodic review of the contractor’s quality control program and reports. The contract should specify any requirement for scheduled inspections (e.g., the frequency and dates or other occurrences that trigger the inspections).

Second, determine what level of inspection is appropriate for the contract. The need for inspection is variable and contract-specific. Factors such as the complexity of the work, the type of contract, the importance of the expected results, and the expertise of contractor and gov-

**Table 1: The Inspection Process**

Contractor Delivers 	Government Inspects 	Government Accepts 	Government Completes Receiving Report
The contract sets forth delivery requirements for supplies and/or services	Usually delegated by contracting officer to COR or other designated government official  If not performed . . .	Unconditional acceptance = supplies/services conform to contract’s requirements  Conditional acceptance = supplies/services do not conform to contract and must be corrected by a certain date  Constructive acceptance = the government has not performed inspection and/or not notified the contractor of rejection within a certain number of days (usually seven)	FAR part 2 describes a “receiving report” as “written evidence that indicates Government acceptance of supplies delivered or services performed (see subpart 46.6). Receiving reports must meet the requirements of 32.905(c).”

ernment personnel involved will determine the amount and level of inspection required. For example, if a contractor's quality control program works and achieves a good level of performance on a consistent basis, the amount of inspection could be reduced compared to other contractors performing similarly complex requirements.

The COR's role during inspection and acceptance will be to make sure inspections are carried out as specified in the contract and in the QASP, and that work is either accepted or rejected in writing during the time frames set forth in the contract. On some contracts, the COR may be assisted by other government personnel; such arrangements must be coordinated with the contracting officer, who will delegate duties in writing to assisting personnel. All government personnel involved in inspection should be appropriately appointed, trained, and supported; must understand the requirements for documentation of the file; and must be monitored by the COR and contracting officer during contract performance.

It is important to note that while the inspection clause gives the government the right to inspect and test the work performed or supplies delivered under the contract at all stages of performance, it does not permit the government to perform inspection in a manner that unreasonably interferes with the contractor's performance or that increases the cost or amount of work required from the contractor. The COR must avoid any action or inaction that might result in unreasonable interference or delay. Such actions and inactions include, but are not limited to:

- Failing to review deliverables or make inspections in a timely manner
- Denying or failing to obtain contractor access to government premises on which contract work must be performed
- Conducting inconsistent, multiple inspections
- Requiring a higher standard of performance than that established in the contract
- Unnecessarily directing the contractor to stop work (only the contracting officer may issue a stop work order)
- Directing the contractor to perform work that is outside the scope of the contract

### **How does the COR officially accept the supplies or services?**

Neither the standard inspection clauses nor the regulations require that acceptance be made in any specific manner. Normally, acceptance is expected to occur through the execution of a formal written document. As stated in FAR 46.501, "acceptance shall ordinarily be evidenced by execution of an acceptance certificate on an inspection or

#### **Numbers and Titles of Inspection Clauses**

- 52.246-1 – Contractor Inspection Requirements
- 52.246-2 – Inspection of Supplies -- Fixed-Price
- 52.246-3 – Inspection of Supplies -- Cost-Reimbursement
- 52.246-4 – Inspection of Services -- Fixed-Price
- 52.246-5 – Inspection of Services -- Cost-Reimbursement
- 52.246-6 – Inspection -- Time-and-Material and Labor-Hour
- 52.246-7 – Inspection of Research and Development -- Fixed-Price
- 52.246-8 – Inspection of Research and Development -- Cost-Reimbursement
- 52.246-9 – Inspection of Research and Development (Short Form)
- 52.246-11 – Higher-Level Contract Quality Requirement
- 52.246-12 – Inspection of Construction
- 52.246-13 – Inspection -- Dismantling, Demolition, or Removal of Improvements
- 52.246-14 – Inspection of Transportation
- 52.246-15 – Certificate of Conformance

receiving report form or commercial shipping document/packing list." FAR 46.601 requires agencies to "prescribe procedures and instructions for the use, preparation, and distribution of material inspection and receiving reports and commercial shipping document/packing lists to evidence Government inspection (see 46.401) and acceptance (see 46.501)."

FAR part 2 describes a "receiving report" as "written evidence that indicates Government acceptance of supplies delivered or services performed."<sup>1</sup> Per FAR 32.905(c), which also contains required elements for a receiving report, the receiving official normally will need to forward the documentation to the payment office within five days of acceptance. The receiving official may be the COR or may be a warehouse staffer, end user, or other designated government personnel. Inspection and receiving reports will be sources of documentation of the quality and timeliness of the contractor's performance. CORs will need to familiarize themselves with their specific agency policies, procedures, and forms/formats used to perform inspection and acceptance activities.

The COR should bear in mind that once formal acceptance has occurred, the contractor generally is excused from further performance. After final acceptance, the contractor no longer can be held responsible for unsatisfactory effort, unless otherwise specified in the contract.

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However, the government is not without some protection in the event that defects are discovered after acceptance. The terms of the standard inspection clauses give the government remedies after acceptance in the case of latent defects, fraud, or gross mistakes that amount to fraud. In addition, warranty clauses can be used that give the government rights after acceptance

### What if inspection reveals unacceptable supplies and/or services?

The COR should immediately notify the contracting officer and receive specific instructions regarding how to proceed, unless these procedures already have been covered in the COR designation letter. Generally, the government will reject the supplies or services and seek remedy under the applicable inspection clause. Rejection is the official means by which the government notifies the contractor that the work is defective and is not being accepted.

The government should give the contractor a proper and timely notice of rejection to protect its interests. Although the standard inspection clauses contain no requirement that the rejection notice provide reasons for the rejection, FAR 46.407(g) requires that the reasons be

stated. It also is in the best interests of the government to fully and promptly communicate the issues it has in terms of how contract requirements are not being/have not been met.

The government's remedies under the inspection clauses generally are to (1) require contractor correction; (2) correct the defect itself or have it corrected by another contractor, charging the original contractor for the expense; or (3) obtain a price reduction. Each situation must be dealt with collaboratively by the contracting officer and the COR on a case-by-case basis.

### Key Takeaways

- Inspection and acceptance, and completion of receiving reports or other documentation, are important processes that contracting officers frequently delegate to CORs.
- The government may not perform inspection in a manner that interferes with or impedes the contractor's work.
- Timeliness is essential.
- Government inspection and acceptance precedes the approval of payment to the contractor.
- Rejection notices must be issued in a timely manner and provide the reasons for the rejection

### Endnote

1 Examples of material inspection and receiving reports can be found at <http://www.dtic.mil/whs/directives/informgt/forms/eforms/dd0250.pdf> for the Department of Defense and <http://www.doi.gov/archive/nbc/formsmgt/forms/di102-F.pdf> for the Department of the Interior. Your agency may have its own forms.

### Other Relevant Quick Reference Guides

**"Top 10 Things Every COR Should Do – Postaward"**

**"A COR's Guide to Evaluating Contractor Performance"**

**"A COR's Guide to Processing Invoices"**

**"A COR's Guide to the COR File"**

**"A COR's Guide to the Prompt Payment Act"**

**"A COR's Guide to Contract Remedies"**

**"A COR's Guide to the Quality Assurance Surveillance Plan"**

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