



DEPARTMENT OF THE AIR FORCE  
WASHINGTON DC

Office of the Assistant Secretary

24 MAR 1998

CONTRACTING POLICY MEMO 98-C-03  
AFFARS Case 98-01

MEMORANDUM FOR ALMAJCOM/FOA/DRU (CONTRACTING)

FROM: SAF/AQC  
1060 Air Force Pentagon  
Washington DC 20330-1060

SUBJECT: Interim Revision of Air Force Federal Acquisition Regulation Supplement  
(AFFARS) Caused by Public Law 105-85 and Director, Defense Procurement  
Departmental Letter D.L. 98-002

We amended the AFFARS on an interim basis in order to implement the changes caused by Section 847 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85) and Director, Defense Procurement letter 98-002. Section 847 repealed the requirement for contractor warranties on major weapons systems. We posted the AFFARS revision on the Internet in the Air Force Contracting Home Page with field comments due 27 March 1998.

The attached interim AFFARS changes are effective immediately and will be included in the next Air Force Acquisition Circular along with any revisions from field comments.

My point of contact is Mr. David Powell, SAF/AQCP, DSN 425-7062, E-mail:  
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*Frank J. Anderson, Jr.*  
FRANK J. ANDERSON, JR., Brig Gen, USAF  
Deputy Assistant Secretary (Contracting)  
Assistant Secretary (Acquisition)

Attachment:  
AFFARS changes

**AFFARS Text Changes Caused by Public Law 105-85, AFFARS Case 98-01**

**PART 5346—QUALITY ASSURANCE**

**SUBPART 5346.7—WARRANTIES**

5346.702 General.

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**[5346.703 Criteria for use of warranties.**

**(3) Weapon system warranties. Although weapon system warranties are no longer mandated by statute, the contracting officer shall examine the value of warranties on major systems and pursue such warranties when appropriate and cost effective. AFM 64-110, Manual for Weapon System Warranties, contains guidance for the establishment and administration of weapon system warranties.]**

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~~5346.770 Warranties in weapon system acquisitions.~~

~~5346.770-2 Policy.~~

~~(e) See AFM 64-110, Weapon System Warranties, for additional guidance concerning redesign as a remedy.~~

~~5346.770-3 Tailoring warranty terms and conditions.~~

~~Contracting officers should exclude correction of defects that are beyond the reasonable control and not attributable to any fault of the contractor (e.g., those resulting from combat damage, Government misuse, and accidental damage.) In addition, the contracting officer shall consider factors such as the technical risk, contractor financial risk, and other program uncertainties in establishing limitations to ensure a cost effective warranty. Establishing dollar ceilings on contractor liabilities and exempting a portion of the weapon system specification from the performance warranty are examples of limitations that contracting officers may agree to if they are reasonably shown to be in the best interest of the Government. However, an essential performance requirement (EPR) shall not be exempted.~~

~~5346.770-5 Exemption for alternate source contractor(s).~~

~~Submit exemption requests to SAF/AQCS. Justify using the format for waivers (see DFARS 246.770-8 (e)).~~

~~5346.770-6 Applicability to foreign military sales (FMS).~~

~~Use this subpart to the maximum extent possible when buying weapon systems from foreign governments. If the foreign government does not include contract warranty provisions, process a waiver~~

~~in accordance with DFARS 246.770-8 (e). Use the interests of national defense exception (see AFM 64-110).~~

~~5346.770-8 Waiver and notification procedures.~~

~~The Assistant Secretary of the Air Force for Acquisition (SAF/AQ) has waiver authority (nondelegable). See AFM 64-110 for requirements for submitting waiver requests to SAF/AQCS.~~

~~5346.770-90 Air Force warranty procedures.~~

~~(a) Planning. A warranty plan is required for all weapon system warranties. For nonweapon systems, a plan is required when more than one MAJCOM will provide significant support in the acquisition or administration of the warranty. Contracting officers shall include the warranty plan in the contract file (see AFM 64-110).~~

~~(b) Warranty distribution. MAJCOMs, FOAs, and DRUs that award contracts with weapon system warranties shall establish procedures to accomplish the reporting requirements (see AFM 64-110).~~

~~(c) Warranty administration. See AFM 64-110 for policies and procedures for administration of weapon system warranties.~~

~~5346.770-91 Establishing essential performance requirements.~~

~~(a) MAJCOMs shall establish procedures for establishing essential performance requirements (EPRs). Authority for designating EPRs is delegated to the commanders of the MAJCOMs with power to redelegate.~~

~~(b) Warranty plans shall clearly identify the procedures used to establish each EPR. EPRs may cover the performance of one or more items. The contracting officer shall ensure that:~~

~~(1) The duration of the EPR warranty is long enough to determine that EPR requirements are satisfied; and~~

~~(2) The contract will permit the contracting officer to take appropriate corrective action if the item fails to satisfy the EPR requirement, even in cases where the EPR does not designate specific types of failures or (in the operation of a group or fleet of items) a mean failure rate for a specified period. (See AFM 64-110.)~~