

Definitions:

Beneficial Occupancy

•The project, or portions thereof, are complete in nature to allow the government to utilize the project, or portions thereof, for their intended usage. The mechanical systems, life safety systems, telecommunications systems, and any other systems which are required to properly utilize the project, or portions thereof, shall be complete and in good working order. The remaining items to be completed shall be such that the correction does not cause inconvenience to the government or disruption to the government's normal operations. The one year warranty period begins on the date we take beneficial occupancy. If you have more than one date of beneficial occupancy for different systems, or work segments, you will end up with multiple warranty periods.

Substantial Completion

•The condition of the work when major components that make up the project are complete and the project is functional for its intended use. Any items remaining to be completed should, at this point, be duly noted or stipulated in writing (see Punch List). The one year warranty period begins on the date of substantial completion. If you have more than one date of substantial completion (e.g. multiple buildings) and/or beneficial occupancy for different systems, etc., you will end up with multiple warranty periods.

Punch List

•An itemized list of construction deficiencies identified during the final inspection that the contractor is required to correct before the client takes possession of the project.

List of Deficiencies

•An itemized list of construction deficiencies identified during the beneficial occupancy inspection that the contractor is required to correct before the client takes possession of the project.

Acceptance

•Also referred to as acceptance of work or final acceptance. The act of an authorized representative of the Government by which the 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. (FAR 46.101) Acceptance is a very important event because it reduces the Government's rights with respect to defective items, (latent vs patent defects) entitles the contractor to final payment, and may affect title and risk of loss.

Latent Defect

•A defect which exists at the time of acceptance but cannot be discovered by a reasonable inspection. (FAR 46.101) There is no time limit on a latent defect; the contractor is always responsible for correcting latent defects.

Patent Defect

•Any defect which exists at the time of acceptance and is not a latent defect. (FAR 46.101) Patent defects are easily and readily discoverable during a reasonable inspection. Patent defects

must be brought to a contractor's attention at or before substantial completion or beneficial occupancy in order to hold the contractor responsible for correcting them.

Liquidated Damages

● A stipulation in a contract on monetary amount that must be paid by the contractor if the contractor fails to deliver supplies or perform services as specified in the contract or any modification. Payments are in lieu of actual damages related to the failure. The rate (e.g., dollars per day of delay) is fixed in the contract and must be reasonable considering probable actual (not punitive) damages related to any failure in contract performance. (FAR 11.502(b) and 52.211-11(a))

Retainage

● A percentage of a progress payment withheld based on unsatisfactory contract progress under a construction contract. The percentage withheld must not exceed 10 percent of the approved estimated amount of progress under the terms of the contract and may be adjusted as the contract approaches completion to recognize better than expected performance, the ability to rely on alternative safeguards, and other factors. Upon contract completion of all contract requirements, retained amounts must be paid promptly. (FAR 32.103)

Release of Claims

● A release a contractor provides to the government after completion of the work under the contract. In doing so, the contractor releases the government from any claims, debts, liabilities, etc., as a result of the contract.

Performance Bond

● A bond that secures performance and fulfillment of the contractor's obligations under the contract. (FAR 8.001(f))

The General Contractor is not released from the Bond until a Final Release of Claims has been executed

Warranty

● A promise or affirmation given by a contractor to the Government regarding the nature, usefulness, or condition of the supplies or performance of services furnished under the contract. (FAR 46.701)

Warranty Period (Construction)

● Warranty continues for a period of 1 year from the date of final acceptance of the work. If the Government takes possession (beneficial occupancy) of any part of the work before final acceptance, warranty continues for a period of 1 year from the date the Government takes possession.