

ANNEX II

REGARDING RECIPROCAL GOVERNMENT QUALITY ASSURANCE
SERVICES
TO THE
MEMORANDUM OF UNDERSTANDING
BETWEEN THE
MINISTRY OF NATIONAL DEFENSE OF THE REPUBLIC OF KOREA
AND THE
DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA
SIGNED JUNE 8, 1988
ON DEFENSE TECHNOLOGICAL AND INDUSTRIAL COOPERATION

ARTICLE I
Preamble

- A. The Defense Acquisition Program Administration of the Republic of Korea (ROK DAPA) and the Department of Defense of the United States of America (U.S. DoD) (hereinafter collectively referred to as the "Parties"), shall provide one another with reciprocal Government Quality Assurance (GQA) services in support of the procurement of defense products and services under the Memorandum of Understanding between the Ministry of National Defense of the Republic of Korea and the Department of Defense of the United States of America on Defense Technological and Industrial Cooperation, which entered into effect June 8, 1988 (1988 MOU).
- B. In general, the responsibilities of the Parties under this Annex shall be carried out by each Party's respective quality assurance national authority listed in Article III (Definitions and General Information), paragraph A.2., (Authorities) of this Annex (hereinafter referred to as the "Authorities"). The Authorities shall accomplish such GQA services without charge in accordance with established and documented laws, directives, regulations, and procedures of their Governments.
- C. The objective of this Annex is to ensure that each of the Authorities is able to employ the most effective and efficient GQA process possible when acting under the provisions of this Annex.

ARTICLE II
Scope

- A. Applicability.
 - 1. Except as otherwise provided in this Annex, this Annex supersedes Annex 2 on Defense Technological and Industrial Cooperation Reciprocal Quality Assurance Services, to the 1988 MOU, which entered into force August 3, 1993 (1993 Annex 2).
 - 2. The provisions of this Annex apply to contracts and derived subcontracts entered into after the effective date of this Annex.
 - 3. However, any contract awarded by the U.S. DoD that supports a Foreign Military Sales (FMS) case that was entered into prior to the effective date of this Annex, shall not be covered by this Annex.
 - 4. Contracts awarded prior to the effective date of this Annex continue to be covered by the provisions of the 1993 Annex 2.

B. The provisions of this Annex apply to the following purchasing methods:

1. Purchases by the Government of Korea from the Government of the United States of America under the U.S. Foreign Military Sales (FMS) Program in accordance with the U.S. Arms Export Control Act and associated regulations, policies, and procedures.
2. Direct commercial procurement contracts made outside of Government-to-Government channels, whether by the U.S. Government with suppliers located in the Republic of Korea or by the Government of Korea with suppliers located in the United States.

C. Notwithstanding any other provisions of this Annex, if special arrangements for GQA support are made under an international cooperative project agreement in which the U.S. DoD and the ROK MND participate, those special arrangements shall have precedence over this Annex.

D. A Request for GQA services under this Annex shall normally be restricted to those cases in which quality cannot be verified satisfactorily after receipt of the deliverables of a contract or where GQA support at the source is otherwise considered essential. GQA should not normally be requested for non-complex, non-critical, or low-risk products or contracts.

ARTICLE III Definitions and General Information

A. The following definitions apply to this Annex:

1. Acquirer: U.S. Government or Republic of Korea Government organization or agency that enters into a contractual relationship with a Supplier and defines the product and quality requirements.
2. Authorities: The National Authorities are defined as the Defense Agency for Technology and Quality (DTaQ) for the ROK DAPA and the Defense Contract Management Agency (DCMA) for the U.S. DoD.
3. Classified Information: Official information that requires protection in the interests of national security and is so designated by the application of a security classification marking. This information may be in oral, visual, magnetic, or documentary form or in the form of equipment or technology.
4. Controlled Unclassified Information: Unclassified information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. It could include information that has been declassified but remains controlled.
5. Delegator: The representative authorized by an Authority or purchasing Government to request GQA support from the other Authority.

6. Delegatee: The representative authorized by an Authority to ensure GQA support is performed on behalf of the other Authority or purchasing Government.
 7. Government Quality Assurance (GQA): The process by which the appropriate national Authorities establish confidence that the contractual requirements relating to quality are met by the Supplier.
 8. Government Quality Assurance Representative (GOAR): A Government employee authorized by an Authority to perform GQA at the Supplier's plant on behalf of the Delegator in accordance with an RGQA.
 9. Reciprocity: The reciprocal or mutual exchange of the GQA services provided based on national practices.
 10. Request for Government Quality Assurance (RGQA): The formal written request of the Delegator to the Delegatee to perform GQA on a defense contract.
 11. Supplier: A company that enters into a contract to provide products to the Acquirer.
- B. Referenced documents:
1. Memorandum of Understanding Between the Ministry of National Defense of the Republic of Korea and the Department of Defense of the United States of America on Defense Technological and Industrial Cooperation, which entered into effect June 8, 1988, including annexes and amendments thereto.
 2. GQA Administrative Procedure – This procedure shall be developed and maintained by the Authorities jointly to define the administrative process used to exchange GQA services. The GQA Administrative Procedure shall not extend or revise the GQA provisions of this Annex. The GQA Administrative Procedure shall provide administrative guidance only.
- C. Each Authority is responsible for arranging for the performance of the required GQA support by its appropriate national organization. Each Authority shall identify a Central Control Point (CCP) for receipt of an RGQA. The CCP contact information (e.g., mailing address, email address, phone numbers, etc.) shall be maintained and kept current in the GQA Administrative Procedure.
1. Requests by the United States for GQA services in the Republic of Korea shall be sent via DCMA Korea to DTaQ.
 2. Requests by the Republic of Korea for GQA support in the United States shall be sent via DTaQ to the DCMA DoD Central Control Point.
- D. 1. FMS purchases are U.S. Government (Acquirer) contracts and do not normally require an RGQA to be initiated by the Government of Korea purchaser. FMS purchases shall be afforded the same GQA support as the U.S. DoD invokes for similar procurements that it makes for its own use. However, when special or specific GQA requirements are necessary for FMS purchases, the requirements shall be communicated directly to the U.S. Government Acquirer (purchase office), which shall forward the information to DCMA. If assistance is required by the Korean Delegator, he or she shall contact the DCMA DoD CCP directly.

2. For all other defense-related contracts, except FMS cases, issued by the Republic of Korea or United States either Authority may request the other Authority to provide GQA services based on the process described in the GQA Administrative Procedure.
- E. Where GQA support on major programs or projects is contemplated, the Authorities shall consider conducting a joint GQA requirements review and planning meeting to ensure contractual requirements are thoroughly understood and to plan the GQA surveillance jointly.
 - F. The Authorities shall endeavor to keep each other well informed regarding their GQA practices and resources to help ensure that requests for GQA support are reasonable and prudent. Representatives of the Authorities will meet as needed and agreed to by both Authorities, to exchange quality assurance information, experience, and advances in quality concepts and procedures to promote the continuous improvement of GQA process
 - G. Quality Assurance Representatives (QARs) performing GQA services under this Annex are expected to be knowledgeable of the industry practices, techniques, and processes associated with the contract, and they are expected to possess the necessary technical competence and GQA experience to conduct the GQA surveillance required by an RGQA.
 - H. The Authorities may perform other necessary contract administration functions (e.g., government property surveillance) through their own representatives, including GQA functions not delegated in an RGQA. In such cases, the Delegator or purchasing Authority shall inform the other Authority in order to avoid duplication of work.
 - I. Visits by representatives of the Acquirer's Authority to its Supplier's plant shall be coordinated with the Delegatee's Authority, which should be invited to attend meetings with the visiting representatives. The Acquirer's access to its suppliers, subcontractors, and their records, as may be authorized contractually, shall not be impaired or affected in any other way by the provisions of this Annex.

ARTICLE IV
GQA Delegation Process

- A. The GQA Administrative Procedure and process defined in this Annex shall be used when:
 1. Either Authority is requesting GQA services from the other Authority.
 2. Either Authority is performing GQA services on behalf of the other Authority.

- B. When GQA services are contemplated, the Delegator shall ensure:
1. Authorization (usually by contract or purchase order) is provided for GQAR access to the supplier or subcontractor's facilities and records, and the use of supplier or subcontractor assets, as necessary, for the performance of GQA services.
 2. Appropriate quality assurance (QA) standards are imposed by the contract and/or subcontract. These QA standards may include International Organization for Standardization (ISO) 9001, Military QA standards, National QA standards, or other similar standards.
 3. When non-military QA standards are used in a contract and/or subcontract, additional GQA requirements shall be specified as necessary on the RGQA.
- C. To the greatest extent possible, the RGQA shall be risk-based. Each Authority shall use its own national practices to identify the specific risks that the Delegator requires to be mitigated by the GQA surveillance or the specific risk-related tasks the Delegator requires to be performed. The risks and/or risk-related tasks shall be documented in the RGQA. If the Delegator cannot or does not provide a copy of the risk assessment with an RGQA, the Delegator may either seek the advice of the Delegatee in identifying risks prior to submitting an RGQA or, if necessary, may simply request risk-based GQA. If the latter is requested, the Delegatee shall decide the minimum GQA surveillance requirements. RGQAs made in this manner shall be on an exception basis.
- D. The Delegator may request the Delegatee to participate in other contractual matters/activities specifically related to GQA. The Delegatee may decline such requests if the Delegatee considers the request outside the scope of normally acceptable GQA practices.
- E. Where the Acquirer has identified and/or imposed mandatory GQA requirements, these requirements shall be identified as such in the RGQA.
- F. Critical product characteristics or processes (including safety of flight) that may require a more intensive GQA approach (other than risk-based) shall be coordinated with the Delegatee in advance of issuing an RGQA. It is the Delegator's responsibility to identify in the RGQA the critical characteristics or processes requiring GQA surveillance. The Delegatee may propose an alternative GQA approach.
- G. All RGQAs should be sent electronically to the CCP email address provided in the GQA administrative procedure.
- H. Normally, the Delegatee shall acknowledge receipt of an RGQA within 5 working days of receipt, and shall either accept or reject the RGQA within 20 days of receipt. Immediately upon acceptance of a RGQA, the Delegatee shall plan and implement the necessary GQA surveillance to mitigate the identified risks and/or to accomplish the requested tasks, in accordance with established national practices.

- I. Each Authority will cooperate to the maximum extent possible in providing mutual Government Quality Assurance; however, rejection of an RGQA shall be on an exception basis only and shall be limited to unusual circumstances. Should it be necessary to reject an RGQA, the Delegator shall be notified and provided the rationale, in writing, as to why the RGQA was rejected. Whenever possible, the Delegatee should propose an alternative GQA approach in lieu of rejecting the RGQA.
- J. The Delegator may modify an RGQA during contract performance after consultation with the Delegatee. Based on knowledge of the supplier's current or past performance, the Delegatee shall advise the Delegator when the risks or tasks identified on the RGQA are considered unwarranted, excessive, or insufficient. The Delegator is the final authority for defining the GQA requirements. The Delegatee may reject a modified RGQA in accordance with paragraph I of this Article.
- K. If the requirements imposed by an RGQA include functions beyond the current technical capabilities or resource capacities of the Delegatee, the Delegatee shall immediately notify the Delegator. In such cases, the Delegatee shall not procure technical experts or additional resources needed to perform the functions without the written consent of the Delegator.
- L. The Acquirer shall retain final authority over contract interpretations and enforcement actions, and it shall advise the assigned GQA support office in a timely fashion on such matters.
- M. If at any time during the course of the GQA performance the Delegatee cannot proceed with the GQA surveillance, the Delegatee shall so inform the Delegator of the facts as expeditiously as possible. The format and procedure for the notification of unsatisfactory conditions shall be described in the GQA Administrative Procedure. Situations warranting notification shall include, but are not limited to:
 - 1. Deficiencies in the Supplier's quality management system, processes, or product.
 - 2. Deficiencies expected to be a cause of excessive contract delivery delay.
- N. The Delegatee shall maintain records of all GQA surveillance activity performed in support of an RGQA. Unless otherwise stated in the RGQA, record retention periods shall be in accordance with national practices. GQA surveillance records shall be made available to the Delegator upon request.
- O. The Delegatee shall inform the Delegator when the requested GQA is complete in the format described in the GQA Administrative Procedure, or if special arrangements are required, they will be clearly identified on the RGQA. The Delegatee shall provide an affirmation that the contractually required supplies or products have been subject to GQA. This process shall be defined in the GQA administrative procedure.

ARTICLE V
Responsibility and Liability

- A. Nothing in this Annex shall relieve the Supplier of any responsibilities under the contract. No liability shall attach to the Party (including its Authority), its officers, or its representatives acting under this Annex on behalf of the other Party.
- B. Should defective materials or services be detected subsequent to delivery, the Delegatee shall assist the Delegator in the investigation of such defects.

ARTICLE VI
Security and Protection of Information

- A. Any classified information, including, but not limited to, documents, computation material, video, photo or data exchanged under the terms of this Annex shall be protected in accordance with each Party's national laws and regulations for the protection of such information and the current security agreement between the Government of the United States and the Government of the Republic of Korea for the protection of classified information.
- B. The highest level of classified information that will be disclosed under this Annex will be consistent with (1) the terms of the RGQA and the contract under which QA services will be performed, and (2) the security agreement between the United States and Republic of Korea for the protection of classified information that is in effect at the time.
- C. Each Party shall take all lawful steps available to it to keep information exchanged in confidence under this Annex free from disclosure under any legislative provision, unless the other Party consents to such disclosure.
- D. To assist in providing the desired protection, each Party shall mark such information furnished to the other with a legend indicating the country of origin, the security classification, the condition of release, and, if unclassified, the fact that the information relates to this Annex and that it is furnished in confidence.
- E. Unclassified information provided by either Party to the other in confidence, and information produced by either Party pursuant to this Annex or the MOU requiring confidentiality, shall be safeguarded in a manner that ensures its proper protection from unauthorized disclosure.
- F. 1. If the Delegatee requires access to Controlled Unclassified Information (CUI) (e.g., export controlled drawings and specifications) in order to perform the required GQA surveillance at the Supplier's plant, the CUI will be provided, controlled, and protected in accordance with the Parties' national laws and regulations, including the Parties' export control laws and regulations.

2. Both Parties recognize that it is the Supplier's responsibility to comply with export control laws and regulations. Host nation GQA personnel are not responsible for performing oversight or surveillance of a Supplier's compliance with export controls or export licenses.
- G. In the event of termination or expiration of this Annex, the provisions of this Article shall continue to apply.

ARTICLE VII

Charges

- A. GQA services provided under this Annex shall be provided free of charge, subject to a joint review under Article VIII (Review and Revision) of this Annex of the services being exchanged. If, as a result of the joint review, either Authority determines that charges shall be necessary, charges may be imposed after not less than twelve months advance notice.
- B. In the event of unusually heavy resource effects being incurred, appropriate charges may be negotiated. The expenses for product expended during the performance of GQA either on contracts or subcontracts (e.g., destructive testing, live firing tests, etc.) shall be borne in accordance with arrangements made between the contracting parties.

ARTICLE VIII

Review and Revision

- A. This Annex shall be jointly reviewed by the Authorities every three years to ensure that the provisions of this Annex are being effectively implemented, that the quality of services being provided continue to meet the needs of the Authorities, and that general reciprocity is being maintained. However, if considered necessary by either Authority, a joint review may be initiated at any time during the intervening years.
- B. If, as a result of such a review, either Authority determines that this Annex needs to be revised, the Authorities shall consult regarding the need for revisions. If the Authorities agree that changes are needed, they shall negotiate and conclude a revised Annex.
- C. The Authorities are responsible for managing and continuously improving their implementation of the reciprocal GQA process.

**ARTICLE IX
Duration and Termination**

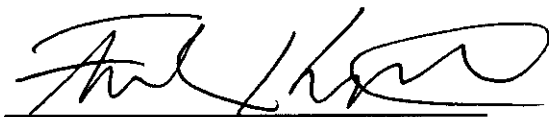
- A. This Annex shall enter into force on the date of the last signature and shall remain in force for five years. Unless otherwise stated in writing by either Party, the duration of the Annex shall be extended automatically for successive five-year periods. This Annex shall terminate automatically upon the termination of the 1988 MOU.
- B. Either Party may terminate this Annex by providing written notification of its intention to the other Party six months in advance of the effective date of the termination.
- C. Unless otherwise agreed, if either Party terminates this Annex, GQA services shall continue to be provided until contract completion for those contracts for which GQA support is being provided under this Annex.
- D. Any misunderstanding regarding the interpretation or application of this Annex shall be resolved by consultation between the Authorities or the Parties and shall not be referred to an international tribunal or third party for settlement.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Annex.

DONE in duplicate, in the English language.

FOR THE DEPARTMENT OF
DEFENSE OF THE
UNITED STATES OF AMERICA

FOR THE DEFENSE ACQUISITION
PROGRAM ADMINISTRATION
THE REPUBLIC OF KOREA



Under Secretary of Defense
(Acquisition, Technology and Logistics)

Commissioner

Date: 13 Dec. 2011
Place: Washington, DC

Date: 13. Dec. 2011
Place: Washington D. C.