

32.304-2 Certificate of eligibility.

(a) The *contracting officer shall* prepare the certificate of eligibility for a contract that the *contracting officer* deems to be of material consequence, when-

- (1) The contract financing office requests it;
- (2) Another interested agency requests it; or
- (3) The application for a loan guarantee relates to a contract or subcontract within the cognizance of the *contracting officer*.

(b) The agency *shall* evaluate the relevant data, including the certificate of eligibility, the accompanying data, and any other relevant information on the contractor's financial status and performance, to determine whether authorization of a loan guarantee would be in the Government's interest.

(c) If the contractor has several major *national defense* contracts, it is normally not necessary to evaluate the eligibility of relatively minor contracts. The determination of eligibility *should* be processed, without delay, based on the preponderance of the amount of the contracts.

(d) The certificate of eligibility *shall* include the following determinations:

- (1) The *supplies* or services to be acquired are essential to the *national defense*.
- (2) The contractor has the facilities and the technical and management ability required for contract performance.
- (3) There is no practicable *alternate* source for the *acquisition* without prejudice to the *national defense*. (This statement *shall* not be included if the contractor is a small business concern.)

(e) The *contracting officer shall* consider the following factors in determining if a practicable *alternate* source exists:

- (1) Prejudice to the *national defense*, because reletting of a contract with another source would conflict with a major policy on defense *acquisition*; *e.g.*, policies relating to the mobilization base.
- (2) The urgency of contract performance schedules.
- (3) The technical ability and facilities of other potential sources.
- (4) The extent to which other sources would need contract financing to perform.
- (5) The willingness of other sources to enter into contracts.
- (6) The time and expense involved in repurchasing for contracts or parts of contracts. This *may* include potential *claims* under a *termination for convenience* or delays incident to default at a later date.
- (7) The comparative prices available from other sources.
- (8) The disruption of established subcontracting arrangements.

(9) Other pertinent factors.

(f) The *contracting officer shall* attach sufficient data to the certificate of eligibility to support the determinations made. Available pertinent information *shall* be included on-

(1) The contractor's *past performance*;

(2) The relationship of the contractor's operations to performance schedules; and

(3) Other factors listed in paragraph (e) of this section, if relevant to the case under consideration.

(g) If the *contracting officer* determines that a certificate of eligibility is not justified, the facts and reasons supporting that conclusion *shall* be documented and furnished to the agency contract finance office.

(h) The *guaranteeing agency shall* review the proposed guarantee terms and conditions. If they are considered appropriate, the *guaranteeing agency shall* complete a standard form of authorization as prescribed by the *Federal Reserve Board*. The agency *shall* transmit the authorization through the *Federal Reserve Board* to the Federal Reserve Bank. The Bank is authorized to execute and deliver to the financing institution a standard form of guarantee agreement, with the terms and conditions approved for the particular case. The financing institution will then make the loan.

(i) Substantially the same procedure *may* be followed for the application of an *offeror* who is actively negotiating or bidding for a defense contract, except that the guarantee *shall* not be authorized until the contract has been executed.

(j) The *contracting officer shall* report to the agency contract finance office any information about the contractor that would have a potentially adverse impact on a pending guarantee application. The *contracting officer* is not required, however, to initiate any special investigation for this purpose.

(k) With regard to existing contracts, the agency *shall* not consider the percentage of guarantee requested by the financing institution in determining the contractor's eligibility.

Parent topic: 32.304 Procedures.