

## Department of Energy

933.103

except that any contrary provisions required by enabling legislation authorizing the loan shall govern.

[49 FR 12011, Mar. 28, 1984, as amended at 75 FR 29459, May 26, 2010]

### 932.7004-2 Criteria.

(a) The materials or services to be furnished by the contractor are necessary to the Government interest.

(b) The materials or services cannot as a practical matter be obtained from alternate sources without delay or impeding the Government's interest, except that no small business concern shall be held ineligible for the issuance of such guarantee by reason of alternative sources of supply.

(c) The contractor has demonstrated its inability to obtain the necessary financing in conventional credit channels without the guarantee.

(d) There is reasonable assurance that the loan can be repaid.

(e) The contractor is competent to perform the contract.

[49 FR 12011, Mar. 28, 1984, as amended at 59 FR 9106, Feb. 25, 1994]

### 932.7004-3 Eligibility.

The applicant's eligibility for a guaranteed loan will be based on—

(a) Contracting officer determinations and findings regarding items (a), (b) and (e) in 932.7004-2 as incorporated in a Certificate of Eligibility (48 CFR 32.304-2); and

(b) The Chief Financial Officer's determination for items (c) and (d) in 932.7004-2 based on information contained in the application, the Federal Reserve Bank's report, and information furnished by the contracting activity concerned.

[49 FR 12011, Mar. 28, 1984, as amended at 59 FR 9106, Feb. 25, 1994; 74 FR 36367, July 22, 2009; 75 FR 29459, May 26, 2010]

## PART 933—PROTESTS, DISPUTES, AND APPEALS

### Subpart 933.1—Protests

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933.102 General.

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933.106 Solicitation provisions.

AUTHORITY: 42 U.S.C. 7101 et seq. and 50 U.S.C. 2401 et seq.

SOURCE: 51 FR 31336, Sept. 3, 1986, unless otherwise noted.

### Subpart 933.1—Protests

SOURCE: 61 FR 41708, Aug. 9, 1996, unless otherwise noted.

#### 933.102 General.

(b) The Heads of Contracting Activities (HCA), for contracts estimated to be within the limits of their delegated authority, may, without power of re-delegation, provide corrective relief in response to a protest in accordance with 48 CFR 33.102(b).

[63 FR 53758, Oct. 16, 1997, as amended at 74 FR 36367, July 22, 2009]

#### 933.103 Protests to the agency.

(i) Protests filed with the contracting officer before or after award shall be decided by the HCA except for the following cases, which shall be decided by the Senior Procurement Executive:

(1) The protester requests that the protest be decided by the Senior Procurement Executive.

(2) The HCA is the contracting officer of record at the time the protest is filed, having signed either the solicitation where the award has not been made, or the contract, where the award or nomination of the apparent successful offeror has been made.

(3) The HCA concludes that one or more of the issues raised in the protest have the potential for significant impact on Department of Energy (DOE) acquisition policy.

(j) The Department of Energy encourages direct negotiations between an offeror and the contracting officer in an attempt to resolve protests. In those situations where the parties are not able to achieve resolution, the Department favors the use of alternative dispute resolution (ADR) techniques to resolve protests. A protest requesting a decision at the Headquarters level shall state whether the protester is willing to utilize ADR techniques such as mediation or nonbinding evaluation of the protest by a neutral party. Both the protester and the Department must agree that the use of such techniques is