32.304-5 Assignment of claims under contracts.

(a) The agency *shall* generally require a contractor that is provided a *guaranteed loan* to execute an *assignment of claims* under defense production contracts (including any contracts entered into during the term of the *guaranteed loan* that are eligible for financing under the loan); however, the agency need not require assignment if any of the following conditions are present:

(1) The contractor’s financial condition is so strong that the protection to the Government provided by an *assignment of claims* is unnecessary.

(2) In connection with the *assignment of claims* under a major contract, the increased protection of the loan that would be provided by the assignments under additional, relatively smaller contracts is not considered necessary by the agency.

(3) The *assignment of claims* would create an administrative burden disproportionate to the protection required; *e.g.,* if the contractor has a large number of contracts with individually small dollar amounts.

(b) The contractor *shall* also execute an *assignment of claims* if requested to do so by the guarantor or the financing institution.

(c) A subcontract or *purchase order* issued to a subcontractor *shall* not be considered eligible for financing under *guaranteed loans* when the issuer of the subcontract or *purchase order* reserves-

(1) The privilege of making payments directly to the assignor or to the assignor and assignee jointly, after notice of the assignment, or

(2) The right to reduce or set off assigned proceeds under defense production contracts by reason of *claims* against the *borrower* arising after notice of assignment and independently of defense production contracts under which the *borrower* is the seller.

Parent topic: 32.304 Procedures.