

Agency for International Development

750.7110-3

(M/OAA/E) for forwarding to the cognizant contracting officer.

[49 FR 13257, Apr. 3, 1984, as amended at 50 FR 50303, Dec. 10, 1985; 55 FR 6802, Feb. 27, 1990; 56 FR 67225, Dec. 30, 1991; 59 FR 33446, June 29, 1994; 72 FR 19670, Apr. 19, 2007]

750.7109-2 Form of requests by contractors.

The contractor's request shall normally consist of a letter to the contracting officer providing the information specified in FAR 50.303.

750.7109-3 Facts and evidence.

The contracting officer or the approving authority may, where considered appropriate, request the contractor to furnish the facts and evidence as described in FAR 50.304.

[49 FR 13257, Apr. 3, 1984, as amended at 62 FR 40469, July 29, 1997]

750.7110 Processing cases.

750.7110-1 Investigation.

The Evaluation Division of the Office of Acquisition and Assistance (M/OAA/E) shall be responsible for assuring that the case prepared by the cognizant contracting officer makes a thorough investigation of all facts and issues relevant to each situation. Facts and evidence shall be obtained from contractor and Government personnel and shall include signed statements of material facts within the knowledge of the individuals where documentary evidence is lacking and audits where considered necessary to establish financial or cost related facts. The investigation shall establish the facts essential to meet the standards for deciding the particular case and shall address the limitations upon exercise of the authority of the M/OAA Director to approve the request.

[62 FR 40469, July 29, 1997, as amended at 64 FR 42042, Aug. 3, 1999; 72 FR 19670, Apr. 19, 2007]

750.7110-2 Office of General Counsel coordination.

Prior to the submission of a case to the M/OAA Director recommending extraordinary contractual relief, the claim shall be fully developed by the cognizant contracting officer and concurrences or comments shall be ob-

tained from the Office of General Counsel for the proposed relief to be granted. Such concurrences or comments shall be incorporated in or accompany the action memorandum submitted for consideration to the M/OAA Director in accordance with 750.7110-3.

[62 FR 40469, July 29, 1997, as amended at 64 FR 42040, Aug. 3, 1999; 72 FR 19670, Apr. 19, 2007]

750.7110-3 Submission of cases to the M/OP Director.

Cases to be submitted for consideration by the M/OAA Director shall be prepared and forwarded by the cognizant contracting officer through M/OAA/E to the M/OAA Director by means of an action memorandum. M/OAA/E will review the action memorandum for accuracy and completeness. The action memorandum shall provide for approval or disapproval by the M/OAA Director of the disposition recommended by the contracting officer. The action memorandum shall address:

- (a) The nature of the case;
- (b) The basis for authority to act under section 750.7101;
- (c) The findings of fact essential to the case (see 750.7109-3) arranged chronologically with cross references to supporting enclosures;
- (d) The conclusions drawn from applying the standards for deciding cases, as set forth in 750.7106, to the findings of fact;
- (e) Compliance with the limitations upon exercise of authority, as set forth in section 750.7107 (for informal commitments, include statements addressing each of the limitations in paragraph (d) of 750.7107);
- (f) Concurrences or comments obtained from the Office of General Counsel;
- (g) Verification of funds availability and the contracting officer's determination of cost/price reasonableness when the disposition recommended requires payment to a contractor;
- (h) The disposition recommended and, if contractual action is recommended with respect to cases falling within Section 4 of the Executive Order, the opinion of the contracting officer that such action is necessary to protect the foreign policy interest of the United States; and