PART 732—CONTRACT FINANCING

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

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Parent topic: SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

Subpart 732.4—Advance Payments for Non-Commercial Items

Source: 56 FR 67225, Dec. 30, 1991, unless otherwise noted.

732.401 Statutory authority.

(a) Sections 635 (b) of the Foreign Assistance Act and Executive Order 11223, May 12, 1965, 30 FR 6635, permit the making of advance payments with respect to functions authorized by the Foreign Assistance Act. Advance payments may also be made under section 305 of the Federal Property and Administrative Services Act of 1949, which provides authority, not otherwise available to USAID, to take a paramount lien.

(b) The Act of August 28, 1968, Public Law 85-804 does not apply to USAID.

732.402 General.

(a)-(d) [Reserved]

(e)

(1) U.S. Dollar advances to for-profit organizations for any award, including advances for

disbursement to grantees, must be processed and approved in accordance with ADS Chapter 636.

(2) All local currency advances to for-profit organizations for any award require the approval of the head of the contracting activity, with concurrence of the Mission Controller.

732.403 Applicability.

References to nonprofit contracts with nonprofit educational or research institutions for experimental, research and development work include nonprofit contracts with nonprofit institutions for: (a) technical assistance services provided to or for another country or countries, and (b) projects which concern studies, demonstrations and similar activities related to economic growth or the solution of social problems of developing countries.

732.406-70 Agency-issued letters of credit.

This subsection provides guidance on use of USAID issued letters of credit (LOC) for advance payments.

732.406-71 Applicability for use of a Letter of Credit (LOC).

An LOC must be used when:

(a) The contracting officer has determined that an advance payment is necessary and appropriate in accordance with this subpart and the requirements found in (48 CFR) FAR 32.4;

(b) USAID has, or expects to have, a continuing relationship of at least one year with the organization, and the annual amount required for advance financing will be at least $50,000; and

(c) The advance payment is approved in accordance with (48 CFR) AIDAR 732.402(e). Additionally, the advance payments made by LOC under for fee or profit contracts, must be approved by the Procurement Executive.

732.406-72 Establishing an LOC.

(a) While the contract will provide for the use of an LOC when it is applicable under 732.406-71, the LOC is a separate agreement between the contractor and USAID. The terms and conditions of the LOC are contained in the LOC instructions issued by USAID and the general operating requirements are those imposed by the USAID LOC servicing agent. LOCs for both USAID/Washington and Mission-executed awards are established by the Bureau for Management, Office of the Chief Financial Officer, Cash Management and Payment Division (M/CFO/CMP) through the Agency LOC servicing agent.

(b) To establish a new LOC account, the contractor must submit to USAID the documentation specified in (48 CFR) AIDAR Clause 752.232-70(b).

732.406-73 LOC contract clause.

(a) If payment is to be provided by LOC, the contract must contain the clause in 752.232-70.

(b) Contracting officers must ensure that an appropriate (48 CFR) FAR payment clause is also inserted in the contract, in the event that the LOC is revoked pursuant to 732.406-74.

732.406-74 Revocation of the LOC.

If during the term of the contract M/CFO/CMP believes that the LOC should be revoked, M/CFO/CMP may, after consultation with the cognizant contracting officer(s) and GC, revoke the LOC by written notification to the contractor. A copy of any such revocation notice will immediately be provided to the cognizant contracting officer(s).