

# 750.7107 Limitations upon exercise of authority.

Link to an amendment published at 89 FR 4207, Jan. 23, 2024.

(a) The Executive Order is not authority for:

- (1) The use of the cost-plus-a-percentage-of-cost system of contracting;
- (2) The making of any contract in violation of existing law relating to limitation on profit or fees;
- (3) The waiver of any bid, payment performance or other bond required by law.

(b) No amendments, or modifications shall be entered into under the authority of the Executive Order:

- (1) Unless, with respect to cases falling within Section 4 of the Executive Order, a finding is made that the action is necessary to protect the foreign policy interests of the United States;
- (2) Unless other legal authority in the Agency is deemed to be lacking or inadequate;
- (3) Except within the limits of the amounts appropriated and the statutory contract authorization.

(c) No contract shall be amended or modified unless the request therefor has been filed before all obligations (including final payment) under the contract have been discharged.

(d) No informal commitment shall be formalized unless:

- (1) A request for payment has been filed within six months after arranging to furnish or furnishing property or services in reliance upon the commitment;
- (2) USAID has received the services satisfactorily performed, or has accepted property furnished in reliance on the commitment;
- (3) The USAID employees alleged to have made the informal commitment have accepted responsibility for making the informal commitment in question; and
- (4) USAID has taken appropriate action to prevent recurrence.

**Parent topic:** [Subpart 750.71—Extraordinary Contractual Actions To Protect Foreign Policy Interests of the United States](#)