

**PART 205—PAYMENTS TO AND ON BEHALF OF PARTICIPANTS IN NONMILITARY ECONOMIC DEVELOPMENT TRAINING PROGRAMS**

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AUTHORITY: Sec. 636(a), Foreign Assistance Act of 1961, as amended (22 U.S.C. 2396).

SOURCE: 43 FR 58815, Dec. 18, 1978, unless otherwise noted.

**§205.1 Per diem rates.**

Participants in any training program under the Foreign Assistance Act of 1961 other than Part II may receive a per diem allowance in accordance with the following rates:

(a) For participants in programs of training in the United States, a per diem rate not to exceed \$40 or, in exceptional circumstances such other rates not to exceed \$65 as the Administrator of the Agency for International Development or his designee may prescribe and such designee may be authorized to redelegate such authority. Per diem rates apply to participants in travel status. Those in academic or non-academic residence status receive monthly rates. Per diem and monthly maintenance cannot be paid for the same period.

(b) For participants in programs of training in countries other than the United States, a per diem allowance not to exceed those prescribed in the Standard Regulations (Government Civilian, Foreign Areas).

**§205.2 Monthly maintenance.**

Academic participants enrolled in educational institutions for one quarter, semester, trimester, or longer will receive monthly maintenances in per diem at rates not to exceed those in §61.5 of this title. Participants in non-academic programs who remain in one city for more than thirty (30) days will also receive a monthly rate established by AID (DS/IT) in lieu of per diem.

**§205.3 Other allowances paid to participants.**

Allowances for books, training equipment, costs connected with preparation of the Master's thesis and preparation and publication of the Doctoral dissertation and other necessary training expenses may be authorized for participants. These allowances will not exceed the maximums paid by ICA/CU to grantees in similar programs.

**§205.4 Tuition.**

Normal institution-established tuition and related fees for approved courses of study will be paid by AID.

**§205.5 Health insurance.**

Premiums for health and accident insurance established by the training institution or under AID contracts with insurance carriers will be paid by AID. In exceptional cases, in which the participant cannot meet medical expenses, AID, with appropriate approval, shall pay necessary medical expenses with appropriated funds.

**§205.6 Advance payment.**

Per diem, monthly maintenance, and other allowances to participants may be paid in advance when necessary and appropriate.

**§205.7 Additional authorization.**

Any emergency, unusual or additional payment deemed necessary for the satisfactory completion of program objectives if allowable under existing authority, whether or not specifically provided for by this part, may be authorized by the Assistant Administrator for Development Support.

**PART 206—TESTIMONY BY EMPLOYEES AND THE PRODUCTION OF DOCUMENTS IN PROCEEDINGS WHERE A.I.D. IS NOT A PARTY**

Sec.

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AUTHORITY: Sec. 621, Foreign Assistance Act of 1961, as amended, 75 Stat. 424 (22 U.S.C. 2381).

SOURCE: 53 FR 24260, June 28, 1988, unless otherwise noted.

### **§ 206.1 Purpose and scope.**

(a) This part sets forth the procedures to be followed in proceedings in which the U.S. Agency for International Development (the "Agency") is not a party, whenever a subpoena, order or other demand (collectively referred to as a "demand") of a court or other authority set forth in § 206.1(d) of this part is issued for the production or disclosure of (1) any material contained in the files of the Agency, (2) any information relating to material contained in the files of the Agency, or (3) any information or material acquired by any person while such person was an employee of the Agency as a part of the performance of his official duties or because of his official status.

(b) For purposes of this part, the term "employee of the Agency" includes all officers and employees of the Agency appointed by, or subject to the supervision, jurisdiction or control of, the Administrator of the Agency, including personal services contractors.

(c) This part is intended to provide instructions regarding the internal operations of the Agency, and is not intended, and does not and may not be relied upon, to create any right or benefit, substantive or procedural, enforceable at law by a party against the Agency.

(d) This part applies to:

(1) State and local court, administrative and legislative proceedings.

(2) Federal court and administrative proceedings.

(e) This part does not apply to:

(1) Congressional requests or subpoenas for testimony or documents.

(2) Employees or former employees making appearances solely in their private capacity in legal or administrative proceedings that do not relate to the Agency (such as cases arising out of traffic accidents, domestic relations, etc.). Any question whether the appear-

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ance relates solely to the employee's or former employee's private capacity should be referred to the General Counsel or his designee.

(f) Nothing in this part affects disclosure of information under the Freedom of Information Act, 5 U.S.C. 552, the Privacy Act, 5 U.S.C. 552a, the Sunshine Act, 5 U.S.C. 552b, or the Agency's implementing regulations. Nothing in this part otherwise permits disclosure of information by the Agency except as is provided by statute or other applicable law.

### **§ 206.2 Production or disclosure prohibited unless approved by the General Counsel.**

No employee or former employee of the Agency shall, in response to a demand of a court or other authority set forth in § 206.1(d), produce any material or disclose any information described in § 206.1(a) without the approval of the General Counsel or his designee.

### **§ 206.3 Procedure in the event of a demand for production or disclosure.**

(a) Whenever an employee or former employee of the Agency receives a demand for the production of material or the disclosure of information described in § 206.1(a), he shall immediately notify and provide a copy of the demand to the General Counsel or his designee. The General Counsel, or his designee, shall be furnished by the party causing the demand to be issued or served a written summary of the information sought, its relevance to the proceeding in connection with which it was served and why the information sought is unavailable by any other means or from any other sources.

(b) The General Counsel, or his designee, in consultation with appropriate Agency officials, and in light of the considerations listed in § 206.6, will determine whether the person on whom the demand was served should respond to the demand.

(c) To the extent he deems it necessary or appropriate, the General Counsel, or his designee, may also require from the party causing such demand to be issued or served a plan of all reasonably foreseeable demands, including but not limited to names of all employees and former employees from

whom discovery will be sought, areas of inquiry, length of time of proceedings requiring oral testimony and identification of documents to be used or whose production is sought.

**§206.4 Procedure where a decision concerning a demand is not made prior to the time a response to the demand is required.**

If the response to the demand is required before the instructions from the General Counsel, or his designee, are received, an attorney designated by the Department of Justice for the purpose shall appear with the employee or former employee upon whom the demand has been made, and shall furnish the court or other authority with a copy of the regulations contained in this part and inform the court or other authority that the demand has been, or is being, as the case may be, referred for the prompt consideration of the General Counsel and shall respectfully request the court or other authority to stay the demand pending receipt of the requested instructions.

**§206.5 Procedure in the event of an adverse ruling.**

If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with §206.4 pending receipt of instructions, or if the court or other authority rules that the demand must be complied with irrespective of instructions not to produce the material or disclose the information sought, the employee or former employee upon whom the demand has been made shall respectfully decline to comply with the demand, citing this part and *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951).

**§206.6 Considerations in determining whether production or disclosure should be made pursuant to a demand.**

(a) In deciding whether to make disclosures pursuant to a demand, the General Counsel, or his designee, may consider, among things:

(1) Whether such disclosure is appropriate under the rules of procedure governing the case or matter in which the demand arose, and

(2) Whether disclosure is appropriate under the relevant substantive law concerning privilege.

(b) Among the demands in response to which disclosure will not be made are those demands with respect to which any of the following factors exist:

(1) Disclosure would violate a statute or a rule of procedure,

(2) Disclosure would violate a specific regulation,

(3) Disclosure would reveal classified information, unless appropriately declassified by the originating agency,

(4) Disclosure would reveal trade secrets or proprietary information without the owner's consent,

(5) Disclosure would otherwise adversely affect the foreign policy interests of the United States or impair the foreign assistance program of the United States, or

(6) Disclosure would impair an ongoing Inspector General or Department of Justice investigation.

**PART 207—INDEMNIFICATION OF EMPLOYEES**

**§207.01 Policy.**

(a) A.I.D. may indemnify, in whole or in part, its employees (which for the purpose of this regulation includes former employees) for any verdict, judgment or other monetary award which is rendered against any such employee, provided that the conduct giving rise to the verdict, judgment or award was taken within the scope of his or her employment with the Agency and that such indemnification is in the interest of the United States, as determined by the Administrator, or his or her designee, in his or her discretion.

(b) A.I.D. may settle or compromise a personal damage claim against its employee by the payment of available funds, at any time, provided the alleged conduct giving rise to the personal damage claim was taken within the scope of employment and that such settlement or compromise is in the interest of the United States, as determined by the Administrator, or his or her designee, in his or her discretion.