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PART 200—EMPLOYEE RESPONSIBILITIES AND CONDUCT

CROSS REFERENCES: The regulations governing the responsibilities and conduct of employees of the Agency for International Development are codified as part 2635 of title 5, prescribed by the Office of Government Ethics.

PART 201—RULES AND PROCEDURES APPLICABLE TO COMMODITY TRANSACTIONS FINANCED BY USAID

Subpart A—Definitions and Scope of This Part

Sec.
201.01 Definitions.
201.02 Scope and application.
201.03 OMB approval under the Paperwork Reduction Act.

Subpart B—Conditions Governing the Eligibility of Procurement Transactions for USAID Financing

201.10 Purpose.
201.11 Eligibility of commodities.
201.12 Eligibility of incidental services.
201.13 Eligibility of delivery services.
201.14 Eligibility of bid and performance bonds and guaranties.
201.15 U.S. flag vessel shipping requirement.

Subpart C—Procurement Procedures; Responsibilities of Importers

201.20 Purpose.
201.21 Notice to supplier.
201.22 Procurement under public sector procedures.
201.23 Procurement under private sector procedures.
201.24 Progress and advance payments.
201.25 Bid and performance bonds and guaranties.
201.26 Expenditure of marine insurance loss payments.

Subpart D—Responsibilities of Suppliers

201.30 Purpose.
201.31 Suppliers of commodities.
201.32 Suppliers of delivery services.

Subpart E—General Provisions Relating to USAID Financing of Commodities and Commodity-Related Services

201.40 Purpose.
201.41 Audit and inspection.
201.42 Reexport of USAID-financed commodities.
201.43 Diversion clause.
201.44 Vesting in USAID of title to commodities.
201.45 Termination or modification of a loan, grant or implementing document.
201.46 Compensation to supplier if shipment is prohibited.
201.47 Use of marine insurance loss proceeds.

Subpart F—Payment and Reimbursement

201.50 Purpose.
201.51 Methods of financing.
201.52 Required documents.
201.53 Final date for presentation of documents.

Subpart G—Price Provisions

201.60 Purpose and applicability of this subpart.
201.61 Meaning of terms in this subpart.
201.62 Responsibilities of borrower/grantee and of supplier.
201.63 Maximum prices for commodities.
201.64 Application of the price rules to commodities.
201.65 Commissions, discounts and other payments, credits, benefits and allowances.
201.66 Side payments.
201.67 Maximum freight charges.
201.68 Maximum prices for commodity-related services.
201.69 Cooperating country taxes and fees.

Subpart H—Rights and Responsibilities of Banks

201.70 Purpose.
201.71 Terms of letters of credit.
201.72 Making payments.
201.73 Limitations on the responsibilities of banks.
201.74 Additional documents for USAID.
201.75 Termination or modification.

Subpart I—Rights and Remedies of USAID, and Waiver Authority

201.80 Purpose.
201.81 Rights of USAID against borrower/grantees.
201.82 Rights of USAID against suppliers.
201.83 No waiver of alternative rights or remedies by USAID.
201.84 Limitation on period for making refund requests.
201.85 Legal effect of USAID approvals and decisions.
201.86 Waiver and amendment authority.
APPENDIX A TO PART 201—SUPPLIER'S CERTIFICATE AND AGREEMENT WITH THE AGENCY FOR INTERNATIONAL DEVELOPMENT (AID 282)

APPENDIX B TO PART 201—APPLICATION FOR APPROVAL OF COMMODITY ELIGIBILITY (AID 11)

AUTHORITY: 22 U.S.C. 2381.

SOURCE: 55 FR 34232, Aug. 22, 1990, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 201 appear at 62 FR 38027, July 16, 1997.

Subpart A—Definitions and Scope of This Part

§ 201.01 Definitions.

As used in this part, the following terms shall have the meanings indicated below:

(a) *The Act* means the Foreign Assistance Act of 1961, as amended from time to time.

(b) *USAID* means the U.S. Agency for International Development or any successor agency, including when applicable, each USAID Mission abroad.

(c) *USAID Geographic Code* means a code in the USAID Geographic Code Book which designates a country, a group of countries, or an otherwise defined area. Principal USAID geographic codes are described in § 201.11(b)(4) of this part.

(d) *USAID/W* means the USAID in Washington, DC 20523, including any office thereof.

(e) *Approved applicant* means the individual or organization designated by the borrower/grantee to establish credits with banks in favor of suppliers or to instruct banks to make payments to suppliers, and includes any agent acting on behalf of such approved applicant.

(f) *Bank* means a banking institution organized under the laws of the United States, or any State, commonwealth, territory, or possession thereof, or the District of Columbia.

(g) *Borrower/grantee* means the government of any cooperating country, or any agency, instrumentality or political subdivision thereof, or any private entity, to which USAID directly makes funds available by loan or grant.

(h) *Commission* means any payment or allowance made or agreed to be made by a supplier to any person for the contribution which that person has made to securing the sale for the supplier or which the person makes to securing similar sales on a continuing basis for the supplier.

(i) *Commodity* means any material, article, supply, goods, or equipment.

(j) *Commodity Approval Application* means the Application for Approval of Commodity Eligibility (Form AID 11) which appears as appendix B to this part 201.

(k) *Commodity-related services* means delivery services and/or incidental services.

(l) *Cooperating country* means the country receiving the USAID assistance subject to provisions of this part 201.

(m) *Delivery* means the transfer to, or for the account of, an importer of the right to possession of a commodity, or, with respect to a commodity-related service, the rendering to, or for the account of, an importer of any such service.

(n) *Delivery service* means any service customarily performed in a commercial export transaction which is necessary to effect a physical transfer of commodities to the cooperating country. Examples of such services are the following: export packing, local drayage in the source country (including waiting time at the dock), ocean and other freight, loading, heavy lift, wharfage, tollage, switching, dumping and trimming, lighterage, insurance, commodity inspection services, and services of a freight forwarder. *Delivery services* may also include work and materials necessary to meet USAID marking requirements.

(o) *Implementing document* means any document, including a letter of commitment, issued by USAID which authorizes the use of USAID funds for the procurement of commodities and/or commodity related services and which specifies conditions which will apply to such procurement.

(p) *Importer* means any person or organization, governmental or otherwise, in the cooperating country who is authorized by the borrower/grantee to use USAID funds under this Regulation for the procurement of commodities, and includes any borrower/grantee who undertakes such procurement.

(q) *Incidental services* means the installation or erection of USAID-financed equipment, or the training of

personnel in the maintenance, operation and use of such equipment.

(r) *Mission* means the USAID Mission or representative in a cooperating country.

(s) *Non-vessel-operating common carrier* (NVOCC) under Section 3(17) of the Shipping Act of 1984 means a common carrier pursuant to Section 3(6) of such Act that does not operate any of the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean carrier.

(t) *Purchase contract* means any contract or similar arrangement under which a supplier furnishes commodities and/or commodity-related services financed under this part.

(u) *Responsible bidder* is one who has the technical expertise, management capability, workload capacity, and financial resources to perform the work successfully.

(v) *Responsive bid* is a bid that complies with all the terms and conditions of the invitation for bids without material modification. A material modification is a modification which affects the price, quantity, quality, delivery or installation date of the commodity or which limits in any way responsibilities, duties, or liabilities of the bidder or any rights of the importer or USAID as any of the foregoing have been specified or defined in the invitation for bids.

(w) *Schedule B* means the ''Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States'' issued and amended from time to time by the U.S. Bureau of the Census, Department of Commerce and available as stated in 15 CFR 30.92.

(x) *Source* means the country from which a commodity is shipped to the cooperating country, or the cooperating country if the commodity is located therein at the time of the purchase. Where, however, a commodity is shipped from a free port or bonded warehouse in the form in which received therein, source means the country from which the commodity was shipped to the free port or bonded warehouse.

(y) *State* means the District of Columbia or any State, commonwealth, territory or possession of the United States.

(z) *Supplier* means any person or organization, governmental or otherwise, who furnishes commodities and/or commodity-related services financed under this part 201.

(aa) *Supplier's Certificate* means Form AID 282 ''Supplier's Certificate and Agreement with the Agency for International Development,'' including the ''Invoice and Contract Abstract'' on the reverse of such form (which appears as appendix A to this part 201), or any substitute form which may be prescribed in the letter of commitment or other pertinent implementing document.

(bb) *United States* means the United States of America, any State(s) of the United States, the District of Columbia, and areas of U.S. associated sovereignty, including commonwealths, territories and possessions.

(cc) *Vessel operating common carrier* (VOCC) means an ocean common carrier pursuant to section 3(18) of the Shipping Act of 1984 which operates the vessel by which ocean transportation is provided.

§ 201.02 Scope and application.

(a) The appropriate implementing documents will indicate whether and the extent to which this part 201 shall apply to the procurement of commodities or commodity-related services or both. Whenever this part 201 is applicable, those terms and conditions of this part will govern which are in effect on the date of issuance of the direct letter of commitment to the supplier; if a bank letter of commitment is applicable, the terms and conditions govern which are in effect on the date of issuance of an irrevocable letter of credit under which payment is made or is to be made from funds made available under the Act, or, if no such letter of credit has been issued, on the date payment instructions for payment from funds made available under the Act are received by the paying bank.

(b) The borrower/grantee is responsible for compliance with the applicable provisions of this part by importers and suppliers and for assuring that importers and suppliers are informed of the extent to which this part applies.

(c) Unless otherwise indicated, references in this part 201 to subparts or to sections relate to subparts or sections of this part 201.

§ 201.03 OMB approval under the Paperwork Reduction Act.

(a) OMB has approved the following information collection and recordkeeping requirements established by this part 201 (OMB Control No. 0412–0514, expiring July 31, 2000):

Sec.
201.13(b)(1)
201.13(b)(2)
201.15(c)
201.31(f)
201.31(g)
201.32(b)
201.32(c)
201.51(c)
201.52(a)
201.74

(b) USAID will use the information requested in these sections to verify compliance with statutory and regulatory requirements and to assist in the administration of USAID-financed commodity programs. The information is required from suppliers in order to receive payment for commodities or commodity-related services. The public reporting burden for this collection of information is estimated to average a half hour per response, including the time required for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Procurement, Policy Division (M/OP/P), U.S. Agency for International Development, 1300 Pennsylvania Avenue, Washington, DC 20523–7801, and the Office of Management and Budget, Paperwork Reduction Project (0412–0514), Washington, DC 20503.

[64 FR 17535, Apr. 12, 1999]

Subpart B—Conditions Governing the Eligibility of Procurement Transactions for USAID Financing

§ 201.10 Purpose.

This subpart sets forth requirements for USAID financing applicable to transactions for the procurement of commodities and/or commodity-related services.

§ 201.11 Eligibility of commodities.

To qualify for USAID financing, a commodity procurement transaction shall satisfy the following requirements:

(a) *Description and condition of the commodity*. The commodity shall conform to the description in the implementing document. Unless otherwise authorized by USAID/W in writing, the commodity shall be unused, and may not have been disposed of as surplus by any governmental agency.

(b) *Source*. The authorized source for procurement shall be a country or countries authorized in the implementing document by name or by reference to a USAID geographic code. The source and origin of a commodity must be an authorized source country. The applicable rules on source, origin and nationality for commodities and commodity-related services are in subparts (B), (C), and (F) of part 228 of this chapter.

(c) *Date of shipping documents*. The documents required as evidence of shipment under § 201.52(a)(4) shall show that the date of shipment was within the shipping period, if any, specified in the implementing document.

(d) *Medium of transportation*. Shipment shall not be effected:

(1) By a transportation medium owned, operated or under the control of any country not included within USAID Geographic Code 935; or

(2) Under any ocean or air charter which has not received prior approval by USAID/W, Office of Procurement (Transportation Division).

(e) *Marine insurance*. In accordance with the provisions of § 228.23 of this chapter, USAID may require that any USAID-financed commodity shipped to

the cooperating country shall be insured against marine risks and that such insurance shall be placed in the United States with a company or companies authorized to do marine insurance business in a State of the United States.

(f) *Timely submission of documents.* All documents required under § 201.52 to be submitted by a supplier in order to receive payment or reimbursement shall be submitted to USAID under direct letters of commitment or to a designated bank under bank letters of credit on or before the terminal date specified in the letter of commitment or letter of credit, respectively.

(g) *U.S. Treasury Department regulations.* Procurement transactions shall comply with the requirements of the U.S. Treasury Department Foreign Assets, Sanctions, Transactions and Funds Control Regulations published in 31 CFR parts 500 through 599, as from time to time amended.

(h) *Commodities shipped out of a free port or bonded warehouse.* No commodity shipped out of a free port or bonded warehouse is eligible for USAID financing if it was shipped to the free port or bonded warehouse without compliance with the requirements set forth in paragraph (d)(1) of this section, or if it was shipped from the free port or bonded warehouse without compliance with the requirements set forth in paragraphs (d) (1) and (2) of this section.

(i) *Purchase price.* The purchase price for the commodity shall satisfy the requirements of subpart G.

(j) *Purchases from eligible suppliers.* Commodities procured with funds made available under this part 201 shall be purchased from eligible suppliers. The rules on the nationality of suppliers of commodities are in section 228.14 of this chapter.

(k) *Determination of commodity eligibility.* The commodity shall be approved in writing by USAID for each purchase transaction as eligible for USAID financing. Such approval shall be indicated on the Application for Approval of Commodity Eligibility (Form AID 11) submitted to USAID by the supplier.

[55 FR 34232, Aug. 22, 1990, as amended at 58 FR 48797, Sept. 20, 1993; 62 FR 38027, July 16, 1997]

§ 201.12 Eligibility of incidental services.

Incidental services may be financed under the same implementing document which makes funds available for the procurement of equipment only if:

(a) Such services are specified in the purchase contract relating to the equipment;

(b) The price satisfies the requirements of § 201.68;

(c) The portion of the total purchase contract price attributable to such services does not exceed 25 percent; and

(d) The supplier of such services, prior to approval of the USAID Commodity Approval Application, has neither been suspended or debarred by USAID under part 208 of this chapter, nor has been placed on the ''Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs,'' published by the U.S. General Services Administration.

(e) The supplier of such services meets the requirements of § 228.25 of this chapter.

[55 FR 34232, Aug. 22, 1990, as amended at 62 FR 38027, July 16, 1997]

§ 201.13 Eligibility of delivery services.

(a) *General.* Delivery of USAID-financed commodities may be financed under the implementing document provided the delivery services meet the requirements of this section and the applicable provisions in part 228, subpart C of this chapter.

(b) *Transportation costs.* USAID will not finance transportation costs:

(1) For shipment beyond the point of entry in the cooperating country except when intermodal transportation service covering the carriage of cargo from point of origin to destination is used, and the point of destination, as stated in the carrier's through bill of lading, is established in the carrier's tariff; or

(2) On a transportation medium owned, operated or under the control of any country not included in Geographic Code 935; or

(3) Under any ocean or air charter covering full or part cargo (whether for a single voyage, consecutive voyages, or a time period) which has not received prior approval by USAID/W, Office of Procurement, Transportation Division); or

(4) Which are attributable to brokerage commissions which exceed the limitations specified in § 201.65(h) or to address commissions, dead freight, demurrage or detention.

(c) *Inspection services.* USAID will finance inspection of USAID-financed commodities when inspection is required by USAID, or in those cases where inspection is required by the importer and such inspection is specified in the purchase contract, performed by independent inspectors and is either customary in export transactions for the commodity involved or is necessary to determine conformity of the commodities to the contract. Section 228.24 of this chapter covers the nationality requirements for suppliers of inspection services.

(d) *Marine insurance.* (1) Unless otherwise authorized, USAID will finance premiums for marine insurance including war risk on USAID-financed commodities only if:

(i) The insurance is placed in a country included in the authorized Geographic Code: Provided, that if the authorized Geographic Code is any other than USAID Geographic Code 000, the cooperating country itself shall be recognized as an eligible source; and

(ii) Such insurance is placed either in accordance with the terms of the commodity purchase contract or on the written instructions of the importer; and

(iii) Insurance coverage relates only to the period during which the commodities are in transit to the cooperating country, except that it may include coverage under a warehouse-to-warehouse clause; and

(iv) The premiums do not exceed the limitations contained in § 201.68; and

(v) The insurance provides that loss payment proceeds shall be paid in U.S. dollars or other freely convertible currency.

(2) Within the meaning of § 201.11(e), as well as this paragraph, insurance is placed in a country only if payment of the insurance premium is made to, and the insurance policy is issued by, an insurance company office located in that country.

(e) *Suspension and debarment.* In order to be eligible for USAID financing, the costs of any delivery services must be paid to carriers, insurers, or suppliers of inspection services who, prior to approval of the USAID Commodity Approval Application, have neither been suspended nor debarred under USAID Regulation 8, 22 CFR part 208, nor included on the ''Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs'' published by the U.S. General Services Administration.

[55 FR 34232, Aug. 22, 1990, as amended at 62 FR 38027, July 16, 1997]

§ 201.14 Eligibility of bid and performance bonds and guaranties.

The cost of any bid bond or guaranty posted by a successful bidder or of any performance bond or guaranty posted by a supplier is eligible for financing under the implementing document, provided that the bond or guaranty conforms to the requirements of the invitation for bids or the contract, as applicable, and to the extent that the principal amount of the bond or guaranty does not exceed the amount customary in international trade for the type of transaction and commodity involved. Bonds or guaranties may be payable in U.S. dollars, or a freely convertible currency or local currency, and shall be posted in favor of the purchaser. Nationality requirements for sureties, insurance companies or banks who issue bonds or guaranties under USAID-financed transactions are set forth in § 228.38(b) of this chapter.

[55 FR 34232, Aug. 22, 1990, as amended at 62 FR 38027, July 16, 1997]

§ 201.15 U.S. flag vessel shipping requirements.

(a) *General requirements.* Unless USAID determines that privately owned U.S. flag commercial ocean vessels are not available at fair and reasonable rates for such vessels:

(1) At least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers from each of two geographic

areas—the U.S. and all other countries) of all goods financed by USAID which are transported on ocean vessels shall be transported on privately owned U.S. flag commercial vessels; and

(2) At least fifty percent (50%) of the gross freight revenue generated by all shipments of USAID-financed commodities which are transported to the territory of the borrower/grantee on dry cargo liners shall be paid to or for the benefit of privately owned U.S. flag commercial vessels.

(b) *Methods of compliance.* (1) Compliance with these requirements with respect to dry cargo liner vessels shall be achieved for the total of liner shipments made during the term of the loan or grant agreement. If USAID determines at any time during the term of the agreement that compliance may not be achieved, USAID may require that all subsequent shipments be made on U.S. flag liners until compliance is assured.

(2) Compliance with these requirements with respect to dry bulk carriers and tankers shall be achieved for each quantitative unit of cargo. A quantitative unit of cargo is the total tonnage of a commodity or commodities included in one invitation for bids or other solicitation of offers from ocean carriers for the transportation of cargo which may move in full shipload lots. USAID shall approve a charter or other contract of affreightment for a non-U.S. flag vessel only if USAID has determined that at least 50% of the quantitative unit will move on U.S. flag vessels, to the extent that such vessels are available at fair and reasonable rates for such vessels. U.S. flag dry cargo liners whose offers are responsive to the terms of the invitation for bids or other solicitation of vessels may be used for achieving compliance for the quantitative unit.

(c) *Nonavailability of U.S. flag vessels.* Upon application of the borrower/grantee or the supplier, USAID/W, Office of Procurement, Transportation Division, shall determine and advise the applicant whether or not privately owned U.S. flag vessels are available for any specific shipment of commodities at fair and reasonable rates. A determination that U.S. flag vessels are not available does not carry with it the authorization for USAID to finance freight on a vessel not otherwise authorized; this requires a separate waiver approval in accordance with § 201.13(b)(1)(ii).

(d) *Responsibility.* The borrower/grantee is responsible for compliance with the requirements of this section and for imposing upon subborrowers, contractors and importers such requirements regarding shipping arrangements with suppliers as will assure discharge of this responsibility.

(e) *Privately owned U.S. flag commercial vessels.* For purposes of this section the term ''privately owned U.S. flag commercial vessels'' shall not include any vessel which, subsequent to September 21, 1961, shall have been either built outside the U.S., rebuilt outside the U.S. or documented under any foreign registry until such vessel shall have been documented under the laws of the U.S. for a period of 3 years.

Subpart C—Procurement Procedures; Responsibilities of Importers

§ 201.20 Purpose.

This subpart prescribes procurement procedures which shall apply to an importer whenever a commodity procurement is to be financed by USAID subject to this part 201.

§ 201.21 Notice to supplier.

The importer is responsible for providing the supplier with the following information (either through the invitation for bids, the request for quotations or otherwise):

(a) Notice that the transaction is to be financed by USAID under this part 201;

(b) The identification number of the implementing document;

(c) All additional information prerequisite to USAID financing and contained in the instructions from the borrower/grantee to the importer (for example, eligible source of commodity, periods during which deliveries must be made, shipping provisions, and documentation requirements); and, where appropriate,

(d) Notice of the marking requirements in § 201.31(d), when the importer is the government of the cooperating

country or any if its subdivisions or instrumentalities.

§ 201.22 Procurement under public sector procedures.

(a) *General requirements.* When the importer is the government of the cooperating country or any of its subdivisions, agencies or instrumentalities, all purchase contracts for commodities shall be awarded under public sector procedures in this section unless otherwise authorized by USAID. Such contracts shall be awarded on a competitive basis unless otherwise authorized by USAID under paragraph (g) of this section.

(b) *Formal competitive bidding.* Formal competitive bidding procedures shall be used for all procurements estimated to exceed $100,000 or the equivalent, exclusive of ocean or air transportation costs, except when other procedures are authorized in accordance with this section. Formal competitive bidding procedures may also be used for procurements under $100,000 at the option of the importer. Formal competitive bidding procedures include advertising the availability of an invitation for bids in accordance with paragraph (h) of this section, issuance of the invitation for bids, public opening of sealed bids, evaluation of bids, and award of the contract, except as provided in § 201.22(b)(3), to the lowest responsive bid by a responsible bidder.

(1) *Contents of the invitation for bids.* The invitation for bids and every attachment and amendment thereto shall be in the English language and shall be available to prospective suppliers free of charge unless otherwise authorized by USAID. The following minimum requirements are applicable:

(i) *Statement of requirements.* The invitation for bids shall state specifically that the formal competitive bidding procedures set forth in this § 201.22 apply. The terms and conditions of the procurement shall be clearly indicated, including any factors other than price to be used in the evaluation. Commodity specifications shall be stated in a non-restrictive manner and in sufficient detail to permit maximum response from prospective suppliers. The metric system of measurements shall be used for specifications unless USAID determines in writing that such use is impractical or is likely to cause significant inefficiencies or the loss of markets to U.S. firms.

(ii) *Statement regarding submission of bids.* The invitation for bids shall be appropriately numbered and state the complete physical address, as well as any post office box number, to which bids or offers are to be sent, the closing hour and date for submission and the date, hour and place of the public opening of the bids. If additional drawings, details, regulations or forms are necessary for submitting a bid, the invitation shall state where such material may be obtained.

(iii) *Statement regarding this part 201.* The invitation for bids shall expressly indicate the extent to which any resulting contract is subject to the requirements of this part 201.

(iv) *Statement regarding late bids.* The invitation for bids shall state that no bid received at the address designated in the invitation after the closing hour and date for submission will be considered for award unless its late arrival at that address is attributable solely to mishandling of the bid documents by the importer or any of its agents directly associated with receiving or processing the bids. In no case will the importer consider a bid which was not received at the place of public opening before the award was made.

(2) *Handling bids.* Bids received shall be held intact and sealed and shall be safeguarded against disclosure of contents prior to bid opening. The bids shall be opened publicly as specified in the bid invitation, and all properly submitted bids shall be considered. Direct submission of a bid by a prospective supplier, rather than through an agent or other representative of the supplier in the cooperating country, shall not be cause for rejection.

(3) *Awards.* Every award shall be made to that responsible bidder whose responsive bid is lowest in price. If any factor other than price is used in evaluating bids, each such factor shall be computed in accordance with the formula in the invitation for bids.

(c) *Two-stage formal competitive bidding.* Subject to the approval of USAID, two-stage formal competitive bidding

may be used in the procurement of specialized equipment, where requirements are stated in performance-type specifications. Two-stage bidding involves a request for technical proposals for the equipment being purchased, submission of proposals without price information, discussions with the offerors as necessary to clarify proposals, followed by a request for priced bids for those proposals found to be fully acceptable following discussions between the offerors and the purchaser. The priced bids shall be publicly opened. Handling and award of the bids shall comply with paragraphs (b) (2) and (3) of this section.

(d) *Competitive negotiation procedures.* (1) If approved by USAID based on a written record of the reasons therefor, a competitive negotiation procedure may be used. Competitive negotiation procedures include advertising the availability of a request for quotations in accordance with paragraph (h) of this section, issuance of the request for quotations, receipt and evaluation of offers, negotiation (when appropriate), and award of the contract to the offeror submitting the most advantageous offer, price and other factors considered. Competitive negotiation procedures may be approved in the following circumstances:

(i) When it is impossible to develop adequate commodity specifications for use in an invitation for bids;

(ii) When price alone would not be an effective means of determining an award (*i.e.*, when criteria, such as time of delivery or service capability need to be evaluated);

(iii) When emergency procurement is justified by a demonstration that the time required for formal competitive bid procedures would result in an unacceptable delay in delivering the commodities;

(iv) When proprietary procurement is justified; or

(v) When adherence to formal competitive procedures would impair program objectives.

(2) When formal competitive bidding procedures have failed, all bids have been rejected, and further use of such procedures would clearly not be productive, the Mission Director may authorize the use of competitive negotiation procedures. Further advertising is not required. The request for quotations may be prepared as a new document or may incorporate appropriate provisions of the invitation for bids. It shall be submitted to those potential suppliers who originally submitted bids in response to the invitation for bids.

(e) *Small value procurement.* When the estimated value of the contract does not exceed $100,000 or equivalent (exclusive of ocean and air transportation costs), the purchaser may award a contract by advertising the procurement in accordance with paragraph (h) of this section and soliciting quotations from a reasonable number of sources, including, where feasible, producers of the commodity, taking into consideration:

(1) The nature of the commodities to be purchased;

(2) The number of sources which can supply the commodities;

(3) The value of the procurement; and

(4) The administrative cost of procuring the commodities.

The contract shall be awarded to the offeror with the most advantageous offer, price and other factors considered.

(f) *Proprietary procurement.* Purchasing by brand or trade name or by a restrictive specification (proprietary procurement) may be justified for reasons such as:

(1) Substantial benefits, such as economies in maintenance of spare parts inventories, stronger local dealer organization, better repair facilities, or greater familiarity by operating personnel, can be achieved through standardizing on a particular brand;

(2) Compatibility with equipment on hand is required; or

(3) Special design or operational characteristics are required.

The need for proprietary procurement may serve as the basis for approving the use of competitive negotiation procedures in accordance with paragraph (d) of this section or a waiver for negotiation with a single source in accordance with paragraph (g) of this section.

(g) *Negotiation with a single source*—(1) *Circumstances.* Competition may be waived and negotiation with a single

source authorized by USAID under one of the following circumstances:

(i) the purchaser can demonstrate the existence of an emergency situation in which the requirement for competition would result in an unacceptable delay in the procurement of the commodities;

(ii) proprietary procurement is justified and the necessary commodities or spare parts are available from only one source, taking into account any special requirements such as the need for in-country service capability; or

(iii) adherence to competitive procedures would result in the impairment of the objectives of the United States foreign assistance program or would not be in the best interest of the United States.

(2) *Amendments*. Negotiation with a single source to amend an existing contract outside the scope of the contract must be justified under one or more of the criteria in paragraph (g)(1) of this section and formally approved by USAID.

(h) *Advertising*—(1) *Requirements*. (i) For each procurement estimated to exceed $25,000, or equivalent (exclusive of ocean and air transportation costs), notice of the availability of the invitation for bids, request for quotations or specific information about procurements under $100,000 shall be published by the USAID Office of Small and Disadvantaged Business Utilization/Minority Resource Center in the appropriate USAID Bulletin. The purchaser shall submit three copies of each invitation for bids or request for quotations (if any) to the USAID Mission with its request for advertising. The Mission will forward the request for advertising and the procurement documents to USAID/W. The request for advertising should arrive in the Office of Small and Disadvantaged Business Utilization/Minority Resource Center at least 45 days prior to the final date for receiving bids or quotations. The purchaser may, in addition, advertise in appropriate local, regional, and international journals, newspapers, etc., and otherwise, in accordance with local practice.

(ii) Additionally, if the estimated value of the contract is more than $100,000, or equivalent (exclusive of ocean and air transportation costs), the notice of availability of the invitation for bids or request for quotations shall be published in the ''Commerce Business Daily'' of the U.S. Department of Commerce.

(2) *Exceptions*. (i) When negotiation with a single source has been authorized, advertising is not required.

(ii) When formal competitive bid procedures have failed to result in an award pursuant to paragraph (d)(2) of this section and a determination is made to follow competitive negotiation procedures, no further advertising is required.

(iii) The requirements for advertising as set forth above may be waived by USAID to avoid serious procurement delays in certain circumstances, provided, however, that efforts shall be made to secure bids or offers from a reasonable number of potential suppliers.

(i) *USAID approvals*. (1) Each invitation for bids or request for quotations for an USAID-financed procurement which is estimated to exceed $100,000, or equivalent (exclusive of ocean and air transportation costs), must be approved by USAID prior to issuance.

(2) Each contract in excess of $100,000, or equivalent (exclusive of ocean and air transportation costs), must be formally approved by USAID prior to finalization with the supplier.

(3) USAID may require that contracts under $100,000 be formally approved prior to finalization with the supplier.

§ 201.23 Procurement under private sector procedures.

(a) *General requirements*. Procurements under private sector procedures will normally be carried out by importers using negotiated procurement procedures, unless the importer chooses to follow the procedures in § 201.22. Procurement on a negotiated basis shall be in accordance with good commercial practice. Solicitations by the importer for quotations or offers shall be made uniformly to a reasonable number of prospective suppliers, including, where feasible, producers of a commodity, and all quotations or offers received, whether or not specifically solicited, shall be given consideration before making an award.

(b) *Publicizing*. To provide suppliers in the United States with an opportunity to participate in furnishing commodities which may be purchased on a negotiated basis under USAID financing, USAID will periodically publish for each cooperating country a list of commodities which may be expected to be imported and the names and contact information for the importers which have traditionally purchased those commodities. Interested suppliers may then make offers or furnish quotations on the products they desire to sell directly to the importers of those products. USAID will not publicize specific proposed purchases which are to be undertaken by private sector importers on a negotiated basis unless specifically requested to do so by the importer in accordance with the provisions of paragraph (c) of this section.

(c) *Notification*. If the importer elects to solicit quotations and offers for specific proposed purchases through publication by USAID, USAID will notify prospective suppliers of the export opportunity through the appropriate USAID bulletin. Requests for such notification shall be submitted to the Office of Small and Disadvantaged Business Utilization/Minority Resource Center, USAID, Washington, DC 20523–7700, and shall contain the name and contact information for the importer, a full description of the commodities and any commodity related services required, applicable price and delivery terms and other relevant procurement data, in the English language. The metric system of measurements shall be used for specifications unless USAID determines in writing that such use is impractical or is likely to cause significant inefficiencies or the loss of markets to U.S. firms.

(d) *Notice of quotations and offers received*. USAID may require that the importer furnish an abstract in the English language and identify thereon all offers or quotations received, the offer accepted or order placed, the price, the quantity, the name and address of all persons submitting offers or quotations and of their principals, if any (including manufacturers or processors of the commodity).

(e) *Procurement under special supplier-importer relationships*—(1) Solicitation of offers from more than one supplier is not required if:

(i) The importer is purchasing for resale or processing, as the supplier's regularly authorized distributor or dealer, a commodity which, under the terms of the distributorship or dealer agreement, the importer is precluded from buying from another supplier; or

(ii) The importer is purchasing for resale a registered brand-name commodity from a supplier who is the exclusive distributor of that commodity to the area of the importer.

(2) USAID may require the importer to furnish, or cause to be furnished, to USAID documentary evidence of the existence of the relationships described in paragraph (e)(1) of this section.

[55 FR 34232, Aug. 22, 1990, as amended at 64 FR 17535, Apr. 12, 1999]

§ 201.24 Progress and advance payments.

(a) *Definitions*—(1) *Progress payments*. Progress payments are payments made prior to shipment under a fixed price procurement contract, which are based on actual costs incurred or on an actual stage or percentage of completion accomplished.

(2) *Advance payments*. Advance payments are payments to a supplier prior to, and in anticipation of, performance under a procurement contract. They are not based on actual performance or actual costs incurred.

(b) *Progress Payments*—(1) *Conditions for eligibility*. USAID will approve progress payments only if:

(i) The period between the commencement of work and the first required delivery will exceed four months;

(ii) There will be substantial predelivery costs that may have a material impact on a suppliers's working capital;

(iii) The total FAS purchase price will exceed $200,000;

(iv) The supplier must establish a performance bond or guaranty in favor of the borrower/grantee providing adequate security for the amount of the progress payments; and

(v) The amount of the progress payments does not exceed 95 percent of the total FAS purchase price.

(2) *Notice*. In order for progress payments to be eligible under a competitive procurement, the solicitation document must state that such payments will be allowed and that a request for progress payments will not be considered an adverse factor in the award of the contract.

(3) *Approval*. All progress payments must be approved in writing by USAID.

(c) *Advance payments*—(1) *Conditions for eligibility*. Advance payments may be authorized only if USAID has made a positive determination in writing that:

(i) USAID will benefit therefrom, in terms of increased competition and/or lower prices, prior to the issuance of the solicitation or prior to award of a noncompetitive contract; and

(ii) The supplier has a financial management system which is adequate for controlling and accounting for U.S. government funds.

(2) *Amount*. The amount of the advance is based on an analysis of the working capital required under the procurement contract, taking into consideration the availability of the supplier's own working capital and shall be limited to the minimum amount needed for immediate disbursing needs.

(3) *Security*. The supplier must establish an advance payment bond or guaranty in favor of the borrower/grantee providing adequate security for the amount of the advance payment.

(4) *Notice*. In order for advance payments to be eligible under a competitive procurement, the solicitation document must state that such payments will be allowed and that a request for advance payments will not be considered an adverse factor in the award of the contract.

(5) *Approvals*. All advance payments must be approved by USAID in writing.

§ 201.25 Bid and performance bonds and guaranties.

Whenever the importer requires the posting of a bid bond or guaranty or performance bond or guaranty, the type of bond or guaranty (certified check, irrevocable letter of credit, bank bond, bank guaranty, or surety bond) shall be at the option of the bidder or supplier. Posted bid bonds or guaranties shall be returned to unsuccessful bidders promptly after an award is made. Unless converted to a required performance bond or guaranty, any bid bond or guaranty posted by the successful bidder shall also be returned promptly. Performance bonds or guaranties (as distinguished from commodity warranties of quality or performance) shall be canceled no later than 30 days after completion of the contract performance guarantied.

§ 201.26 Expenditure of marine insurance loss payments.

Unless otherwise authorized by USAID, any marine insurance loss payment under a marine insurance policy financed pursuant to this part 201 received by the importer, either directly or indirectly, shall be used by the importer as follows:

(a) To procure from a source specified in the implementing document which originally provided the USAID funds, commodities which have been designated by USAID to the borrower/grantee as eligible for USAID financing; or

(b) To cover the cost of repairs to commodities damaged during shipment.

Subpart D—Responsibilities of Suppliers

§ 201.30 Purpose.

This subpart establishes the responsibilities of suppliers who furnish commodities and/or commodity-related services.

§ 201.31 Suppliers of commodities.

(a) *Performance of the sales contract*. The supplier of commodities shall comply with the terms and conditions of its contract with the importer and any letter of credit or direct letter of commitment under which it secures payment.

(b) *Responsibilities relating to eligibility of commodities*. The supplier shall fulfill its responsibilities under § 201.11 by assuring that:

(1) The commodity conforms to the description contained in its contract and letter of credit or direct letter of

commitment and, unless otherwise authorized by USAID in writing, the commodity is unused and has not been disposed of as surplus by any governmental agency;

(2) The source of the commodity complies with the provisions of § 201.11(b) relating to source as required by its contract, letter of credit or direct letter of commitment;

(3) The provisions of § 201.11(d) relating to the medium of transportation are complied with to the extent that the supplier arranges such transportation;

(4) All documents required by § 201.52 to be submitted by the supplier to receive payment are submitted by it on or before the terminal date specified in the letter of credit, direct letter of commitment, or, if payment is to be made at sight, the purchase contract;

(5) The provisions of the U.S. Treasury Department Foreign Assets, Sanctions, Transactions and Funds Control Regulations published in 31 CFR parts 500 through 599, as from time to time amended, are complied with; and

(6) The purchase price of the commodity meets the requirements of subpart G of this part applicable to the supplier.

(c) *Responsibilities relating to eligibility of delivery services.* The supplier of commodities shall be responsible for assuring that any delivery services obtained by it for its own or for the importer's account comply with the requirements of § 201.13 and, if required by USAID, for assuring that any shipping documents obtained by it contain an appropriate diversion clause pursuant to § 201.43. The supplier shall deliver to USAID any shipping documents available to it whenever such delivery is requested by USAID.

(d) *Marking of shipping containers and commodities*—(1) *Affixing emblems and identification numbers.* The supplier of commodities shall be responsible for assuring that all export packaging, whether shipped from the United States or from any other source country, carries the official USAID (clasped hands) emblem. Additionally, except as USAID may otherwise prescribe, when the supplier is given notice by the importer that the importer is the government of the cooperating country or any of its subdivisions or instrumentalities, the supplier shall also be responsible for assuring that, in addition to the shipping cartons or other export packaging, all commodities carry the USAID emblem. The USAID financing document number shall be marked on each export shipping carton and box in characters at least equal in height to the shipper's marks. When commodities are shipped as containerized freight in a reusable shipping container, the container is not considered export packaging within the meaning of this paragraph and the outside of the container need not be marked; however, the cartons, boxes, etc., inside the container must be marked.

(i) *Durability of emblems.* Emblems shall be affixed by metal plate, decalcomania, stencil, label, tag or other means, depending upon the type of commodity or export packaging and the nature of the surface to be marked. The emblem placed on commodities shall be as durable as the trademark, commodity or brand name affixed by the producer; the emblem on each export packaging unit shall be affixed in a manner which assures that the emblem will remain legible until the unit reach the consignee.

(ii) *Size of emblems.* The size of an emblem may vary depending upon the size of the commodity and the size of the export packaging. The emblem shall in every case be large enough to be clearly visible at a reasonable distance.

(iii) *Design and color of emblems.* Emblems shall conform in design and color to samples available from the Office of Procurement, Commodity Support Division, USAID, Washington, DC 20523–1415, and from the Mission.

(2) *Exception to requirement for affixing emblems.* To the extent compliance is impracticable, emblems shall not be required for:

(i) Raw materials shipped in bulk (including grain, coal, petroleum, oil, and lubricants);

(ii) Vegetable fibers packaged in bales; and

(iii) Semifinished products which are not packaged in any way.

(3) *Waiver.* If compliance with the marking requirement is found to be impracticable with respect to other commodities not excepted by paragraph

(d)(2) of this section, the supplier (or, when appropriate, the borrower/grantee) may request a waiver from USAID (Regional Assistant Administrator or his/her designee).

(e) *Export licenses and approvals.* The supplier shall be solely responsible for assuring that all necessary export licenses and approvals are obtained.

(f) *Distribution of shipping documents.* The supplier shall make the customary commercial document distribution, as well as any special distribution (e.g., to the USAID Mission in the importing country) which may be specified in the letter of credit, direct letter of commitment or other payment instruction covering the transaction. Prior to presenting the documents specified in § 201.52 for payment, the supplier shall mail not later than 30 days from the date of shipment a legible copy of all rated ocean bill(s) of lading described in § 201.52(a)(4)(i) to: Maritime Administration, Division of National Cargo, 400 Seventh Street SW., Washington, DC 20590–0001; and Transportation Division, Office of Procurement, USAID, Washington, DC 20523–7900.

(g) *Adjustment refunds, credits, and allowances.* All adjustments in the purchase price in an USAID-financed transaction in favor of the importer arising out of the terms of the contract or the customs of the trade shall be made by the supplier in the form of a dollar payment to USAID. Any such payment shall be transmitted to the Office of Financial Management, USAID, Washington, DC 20523–7702, and shall be accompanied by a statement explaining the adjustment and shall specify the name and address of the importer, the date and amount of the original invoice, and the identification number of the implementing document, if known, under which the original transaction was financed. USAID will advise the borrower/grantee of such adjustment refunds received. Despatch earned by the supplier, other than despatch earned at the port of loading on c.i.f. and c. & f. shipments, shall be refunded to USAID in accordance with § 201.67(a)(5).

(h) *Vesting in USAID of title to commodities.* The supplier shall be responsible for compliance with the provisions of § 201.44 applicable to it.

(i) *Termination or modification of USAID-financing.* The supplier shall be responsible for compliance with the provisions of § 201.45 applicable to it.

[55 FR 34232, Aug. 22, 1990, as amended at 64 FR 17535, Apr. 12, 1999]

§ 201.32 Suppliers of delivery services.

(a) *Performance of the service contract.* The supplier of delivery services financed by USAID shall comply with the terms and conditions of its contract to supply delivery services.

(b) *Adjustment in the price of delivery services.* The supplier of delivery services shall pay to the Office of Financial Management, USAID, Washington, DC 20523–7792, all adjustments in the purchase price in favor of the importer (or person purchasing the ocean transportation services) arising out of the terms of the contract or the customs of the trade. Any such payment shall be accompanied by a statement explaining the adjustment and shall specify the name and address of the importer or other person for whom the adjustment is made, the date and amount of the original invoice, and the identification number of the implementing document, if known, under which the original transaction was financed.

(c) *Marine insurance reporting requirement.* With respect to any loss payment exceeding $10,000 in value which a supplier of marine insurance makes under a marine insurance policy financed pursuant to this part, the supplier of marine insurance shall, within 15 days of making such payment, report to the Commodity Support Division, Office of Procurement, USAID, Washington, DC 20523–7900, the amount and date of the payment, a description of the commodity, the USAID identification number, name of the carrier, vessel, and voyage number (alternatively, flight or inland carrier run number), date of the bill(s) of lading, the identity and address of the assured, and the identity and address of the assignee of the assured to whom payment has actually been made.

[55 FR 34232, Aug. 22, 1990, as amended at 64 FR 17535, Apr. 12, 1999]

Subpart E—General Provisions Relating to USAID Financing of Commodities and Commodity-Related Services

§ 201.40 Purpose.

This subpart sets forth certain provisions of general application to transactions subject to this part.

§ 201.41 Audit and inspection.

The borrower/grantee shall maintain records adequate to document the arrival and disposition in the cooperating country of all commodities financed by USAID, and to identify the importer (or the first purchaser or transferee if the commodity is imported by the borrower/grantee) for a period of 3 years following the date of payment or reimbursement by USAID or for such other period as USAID and the borrower/grantee agree. In addition, the borrower/grantee or the importer shall, to the extent either exercises control or custody over the commodities, permit USAID or any of its authorized representatives at all reasonable times during the 3-year or other agreed period to inspect the commodities at any point, including the point of use, and to inspect all records and documents pertaining to such commodities.

§ 201.42 Reexport of USAID-financed commodities.

Unless specifically authorized by USAID, commodities imported into a cooperating country under USAID-financing may not be exported in the same or substantially in the same form from the cooperating country. In the event of any unauthorized reexport, the borrower/grantee shall pay promptly to USAID, upon demand, the entire amount reimbursed or such lesser or greater amount as USAID may deem appropriate under the circumstances of the particular transaction. Such an amount shall in no event, however, exceed the greater of either the amount reimbursed or the amount realized from the reexport.

§ 201.43 Diversion clause.

USAID may require that charter parties, bills of lading, or other ocean shipping documents covering USAID-financed commodities contain a clause substantially as follows:

> USAID may at any time prior to unloading prescribe a different port of discharge from among the ports covered by the applicable tariff. Diversion charges shall apply in accordance with the tariff or contract of affreightment. Deviation insurance and extra handling costs actually incurred shall be reimbursed.

§ 201.44 Vesting in USAID of title to commodities.

(a) *Vesting upon order of USAID* USAID may direct that title to USAID-financed commodities in transit to a cooperating country shall be vested in USAID if, in the opinion of USAID, such action is necessary to assure compliance with the provisions or purposes of any act of Congress.

(1) *Rights of USAID upon vesting of title.* In accordance with instructions by USAID, the borrower/grantee, supplier, and bank shall transfer such negotiable bills of lading, suppliers' invoices, packing lists, inspection certificates or other designated documents relating to the commodities as are in, or may come into, their possession.

(2) *Diversion of commodities.* USAID may direct the master or operator of a vessel or an inland carrier carrying the commodities to divert them away from the port or other destination specified in the shipping documents and to deliver them at such other destination as USAID may designate.

(b) *Financial responsibility of USAID under vesting order.* (1) USAID will reimburse a supplier who has not already received payment under the purchase contract for all commodities with respect to which USAID has taken title under a vesting order.

(2) USAID will assume the responsibility for any extra costs (including the costs of marine insurance and handling) which are incurred as a result of a diversion. Such costs shall not exceed diversion charges as per tariff (liner shipments) or contract of affreightment (charters), and shall include only those deviation insurance and extra handling costs which are actually incurred.

(3) USAID shall incur no liability to the borrower/grantee, the importer, or to the approved applicant by reason of any order which vests in USAID title

to commodities, or by reason of any request for the diversion of commodities.

§ 201.45 Termination or modification of a loan, grant or implementing document.

(a) *Effect of termination or modification*. (1) Except as provided in paragraph (a)(2) of this section, the availability of USAID funds to finance the procurement of commodities and commodity-related services shall terminate or shall be modified, whenever and to the same extent that the implementing document which relates to such delivery is terminated or modified by operation of provisions contained in the document, or by the exercise of rights otherwise reserved to USAID.

(2) Unless the supplier and USAID agree otherwise, to the extent that the supplier has received an irrevocable letter of credit from a bank under an USAID letter of commitment, the purchase contract shall be affected only to the extent necessary to comply with any vesting order issued by USAID in accordance with § 201.44.

(b) *Responsibilities of parties after termination or modification of USAID-financing*. Upon termination or modification of USAID-financing of commodities or commodity-related services, the supplier, importer and approved applicant shall make such arrangements as are necessary to obtain the cancellation or modification of any letter of credit in favor of the supplier.

§ 201.46 Compensation to supplier if shipment is prohibited.

(a) *Payment to supplier*. USAID shall make appropriate payment to a supplier for the value of USAID-financed commodities available for immediate shipment from the United States if all the following conditions are satisfied:

(1) Shipment is prohibited by order of the U.S. Government and such order has general application to all shipments to the cooperating country.

(2) Payment may not be made by the bank under the terms of the letter of credit or payment instructions.

(3) The supplier is unable to dispose of the commodities without loss.

(4) The supplier tenders to USAID a negotiable warehouse receipt covering the commodities in question and presents to USAID such other documentation required by § 201.52 as may be appropriate under the circumstances.

(b) *Other settlement*. In lieu of accepting title to the commodities, USAID may negotiate with the supplier such other settlement as may be fair and equitable under the circumstances.

§ 201.47 Use of marine insurance loss proceeds.

The borrower/grantee shall pay promptly to USAID a sum equal to the proceeds received by an importer or its assignee in settlement of a marine insurance claim under a marine insurance policy financed pursuant to this part 201, if such proceeds are not expended in the manner provided by § 201.26 within a reasonable period after receipt by the importer.

Subpart F—Payment and Reimbursement

§ 201.50 Purpose.

This subpart describes:

(a) The methods by which USAID will make payment or reimbursement for commodities and commodity related services which have been furnished;

(b) The documentation required to be submitted to USAID for the purpose of obtaining such payment or reimbursement; and

(c) The terminal date for presentation of documents which USAID requires as a condition for payment or reimbursement.

§ 201.51 Methods of financing.

Under procurements subject to this part 201, the following methods of financing may be employed by USAID In each case, the method of financing shall be consistent with provisions in the pertinent implementing documents.

(a) *Direct reimbursement*. Upon presentation to USAID of the documents specified in § 201.52, a borrower/grantee will be reimbursed for the cost of commodities and commodity-related services procured by the borrower/grantee directly or procured by other importers with the authorization of the borrower/

grantee, if such commodities or services are eligible under the implementing document and under this part 201 for USAID-financing.

(b) *Letter of commitment to a bank.* At the request of the borrower/grantee, USAID will issue a letter of commitment to a bank for a specified amount in dollars. Reimbursement to a bank will be in accordance with the terms of such letter of commitment for sight payments made for the account of an approved applicant. Any such payment by a bank made in anticipation of a letter of commitment and falling within the scope of payments authorized by such letter of commitment when issued, will be deemed to be a payment to be reimbursed by USAID thereunder.

(1) *Requests for bank letters of commitment.* All requests for bank letters of commitment shall be in the English language and shall be submitted to USAID by the borrower/grantee in duplicate. They shall contain the following:

(i) Identification of the loan or grant agreement;

(ii) The dollar amount of the letter of commitment;

(iii) The name and address of the bank to which the letter of commitment is to be issued;

(iv) The name and address of the approved applicant;

(v) The expiration date to be stated in the letter of commitment, which shall be not later than the final date specified in the implementing document for submission of documentation to the bank as a basis for disbursement against the letter of commitment, except that, if a terminal shipping date is provided in the implementing document, the expiration date shall be the last day of the month following the month in which the terminal shipping date occurs.

(vi) Identification of the items to be financed under the letter of commitment (including the Schedule B identification).

(2) *Approved applicant's request to bank*—(i) *Form and effect of request.* An approved applicant may apply to the bank holding a letter of commitment for the issuance, confirmation, or advice of a commercial letter of credit for the benefit of a supplier, or may instruct the bank to make payments at sight to such supplier, or may instruct the bank to make payments at sight to or for the account of the borrower/grantee.

(ii) *Borrower/grantee assignment under a letter of commitment.* The borrower/grantee's request to USAID for a letter of commitment shall be deemed notification to USAID of assignment of any rights to receive reimbursement for the specified funds under the related implementing document. USAID, by issuance of the letter of commitment, shall be deemed to have consented to such assignment. Any such assignment or consent shall inure to the benefit of the bank's legal successors and assignees.

(iii) *Requirements imposed by bank.* The borrower/grantee and the approved applicant shall be deemed to have consented to imposition by the bank upon the beneficiary of any letter of credit or payment instruction of such requirements as the bank deems necessary in order to comply with its applicable obligations to USAID. Such consent shall be deemed an express condition incorporated in any request of the approved applicant under paragraph (b)(2)(i) of this section.

(3) *Reimbursement of bank.* Upon presentation to USAID of the documents described in § 201.52, USAID will reimburse the bank for any amounts paid by it in dollars to or on behalf of the approved applicant pursuant to a letter of commitment, subject, however, to compliance by the bank with the requirements of subpart H. Such documents in the normal course should be presented to USAID promptly. Bank charges will be eligible for reimbursement if authorized in the letter of commitment. Reimbursement normally will be made within 7 days by an electronic funds transfer.

(c) *Bank charges under letters of commitment.* (1) To claim reimbursement for commissions, transfers or other charges, not including interest on advances, the bank shall submit the Voucher SF 1034 and shall attach thereto a copy of the payment advice which identifies the costs being billed.

(2) To claim reimbursement for interest on advances, the bank shall claim

reimbursement on the Voucher SF 1034, attaching thereto:

(i) The monthly statement of advance account established under the letter of commitment, in duplicate, showing:

(A) The opening balance;

(B) The date and amount of each type of charge attributable to the letter of commitment, indicating the number of the letter of commitment, subsidiary letter of credit, or payment instruction or request under which the charge was made;

(C) The date and amount of each USAID reimbursement to the bank, indicating either the USAID bureau voucher number or the number of the letter of commitment, subsidiary letter of credit, or payment instruction or request under which the payment was made; and

(D) The closing balance;

(ii) The bank's monthly advice of charge, in duplicate, showing:

(A) The outstanding balance in the advance account on each day of the period covered; and

(B) The amount of interest charged during the period.

(3) *Certification*. Each claim for reimbursement shall have endorsed thereon or attached thereto a certification by an authorized representative of the bank that the charges for which payment is being claimed are in accordance with the schedule of charges agreed on between the bank and the approved applicant or beneficiary.

(4) *Report*. The bank shall submit a report showing the financial status of each letter of commitment issued to it by USAID. The content, format and frequency of the report shall be prescribed in the letter of commitment. The report shall be prepared in an original and two copies, and distributed as follows: USAID/W (original), approved applicant (copy) and cognizant Mission (copy). The report to USAID/W should be sent to the Office of Financial Management, Cash Management and Payment Division (M/FM/CMP), USAID, Washington, DC 20523–7702. The report shall be certified by an authorized signatory of the bank.

(d) *Direct letter of commitment to a supplier*. (1) At the request of a borrower/grantee, USAID may issue a direct letter of commitment to a supplier assuring payment by USAID of specified amounts to cover the cost of commodities and commodity-related services. The letter of commitment to a supplier will identify the purchase contract to which it relates and the implementing document under which it is issued.

(2) Assignment may be permitted as provided for in the direct letter of commitment.

[55 FR 34232, Aug. 22, 1990, as amended at 64 FR 17535, Apr. 12, 1999]

§ 201.52 Required documents.

(a) *Commodities and commodity-related services*. Claims for reimbursement or payment with respect to commodities and commodity-related services shall be supported by the documents listed in paragraphs (a)(1) through (8) of this section or by such other documents as may be required in the letter of commitment or other applicable implementing document. Each document shall indicate the identification number of the letter of commitment or other applicable implementing document.

(1) *Voucher*. Voucher SF 1034 with three copies, to be prepared by the borrower/grantee, by the approved applicant, by the bank as assignee or agent for the approved applicant, or, in the case of a direct letter of commitment, by the supplier.

(2) *Supplier's invoice*. (i) One copy of the supplier's detailed invoice showing the following:

(A) The name and address of the importer;

(B) The quantity and the description of each item shipped, in sufficient detail, including the U.S. Department of Commerce Schedule B number, for ready identification;

(C) The total gross sales price;

(D) The total net sales price (determined by deducting from the total gross sales price the amounts required to be deducted under § 201.65(d));

(E) The sales price for each item net of all trade discounts under § 201.65(d);

(F) The delivery terms (e.g., f.o.b., f.a.s., c.i.f. or c. & f.);

(G) The type and dollar amount of each incidental service which is not included in the price of the commodity

and for which reimbursement is claimed;

(H) The type and dollar amount of each delivery service obtained by the supplier of the commodity for the importer's account which is not included in the price of the commodity and for which reimbursement is claimed;

(I) To the extent that the commodity price includes commodity-related services, a list of each such service and the dollar amounts attributable to each such service; and

(J) Unless a Supplier's certificate covering marine insurance is submitted, the name and address of the supplier of such insurance and the dollar cost thereof.

(ii) Each invoice submitted under a bank letter of commitment shall be marked PAID by the supplier, or alternatively, the bank may certify by an endorsement on or attachment to the invoice that payment has been made in the amount shown on the invoice.

(iii) Each invoice must contain certifications from the supplier to the effect that:

(A) The USAID marking requirements set forth in § 201.31(d) have been met;

(B) Unless otherwise specified by USAID, the supplier has airmailed to the USAID Mission in the capital city of the cooperating country one copy each of the invoice, packing list and bill(s) of lading;

(C) If shipment is effected by ocean vessel, one copy of all bill(s) of lading described in § 201.52(a)(4) has been mailed to: Maritime Administration, Division of National Cargo, 400 Seventh Street SW., Washington, DC 20590–0001; and Transportation Division, Office of Procurement, USAID, Washington, DC 20523–7900.

(3) *Charter party*. A copy (or photostat) of any approved charter party under which shipment is made, submitted:

(i) By the commodity supplier whenever USAID-finances any portion of the dollar price of a commodity sale under c.&f. or c.i.f. delivery terms, or

(ii) By the supplier of ocean transportation whenever USAID-finances the freight under any freight reimbursement arrangement.

If shipment is made under a consecutive voyage or time charter and the person or organization seeking reimbursement or payment has previously submitted to USAID a copy (or photostat) of said charter party in support of a prior claim for reimbursement or payment, such person or organization may, in lieu of further submission of the charter party, certify to the fact of prior submission.

(4) *Evidence of shipment*. (i) A copy (or photostat) of the bill(s) of lading (ocean, charter party, air, rail, barge, or truck) or parcel post receipt evidencing shipment from the point of export in the source country or free port or bonded warehouse. The bill(s) of lading shall indicate the carrier's complete statement of charges, including all relevant weights, cubic measurements, rates and additional charges, whether or not freight is financed by USAID If an NVOCC is used, rated copies of both the NVOCC's through bill of lading and the bill(s) of lading of all VOCCs must be included.

(ii) When the commodity is transported to the cooperating country under its own power (e.g., a fishing vessel), USAID will require a certificate signed by the importer or its authorized agent, certifying that the commodity has been received by the importer, to be submitted instead of a bill of lading.

(iii) When the supplier is not responsible under the terms of its agreement with the importer for assuring that the commodities are loaded on board the vessel, such as when delivery terms are f.a.s. port of shipment, the importer may request and the Commodity Support Division, Office of Procurement, USAID, Washington, DC 20523–7900 may authorize the following documents, instead of a bill of lading, to be submitted with a claim for reimbursement or payment for the commodities:

(A) A dock or warehouse receipt containing the commodity description, weight and cubic measurement, port of loading, and, if available, name and flag of vessel; the receipt must show consignment of the commodities to a person or organization designated by the importer; and

(B) A letter from the consignee addressed to USAID undertaking to arrange for shipment of the goods to the cooperating country and to deliver to: FM/CMPD, Office of Financial Management, USAID, Washington, DC 20523–7702, within 15 days from the date of shipment, a copy of the bill of lading evidencing shipment to the cooperating country. The bill of lading shall indicate the carrier's complete statement of charges, as in paragraph (a)(4)(i) of this section.

(5) *Documentation on shipments to a free port or bonded warehouse.* When a commodity is shipped out of a free port or bonded warehouse, the supplier shall:

(i) Provide as an attachment to a copy of the invoice, a copy of the bill of lading (bearing a notation of the freight cost) covering the shipment of the commodity into the free port or bonded warehouse, or

(ii) If such a bill of lading is not available to the supplier, provide the following information and certify to the accuracy of the information: the country or area from which the commodities were shipped to such free port or bonded warehouse; the name and flag of the vessel which transported the commodities from the source country to the free port or bonded warehouse; the cost of the freight for such shipment; and the free port or bonded warehouse to which shipment was made from the source country, or

(iii) If commodities have been commingled in the warehouse in such a way that shipments out of the warehouse cannot be related to particular shipments into the warehouse, the supplier shall certify to the best of its knowledge and belief that a portion of the commodities was transported to the free port or bonded warehouse as required by § 201.13(b)(1)(i)(D), and the quantity for which USAID-financing is sought does not exceed that amount.

(6) *Supplier's Certificate (form AID 282).* An original and one copy of the Supplier's Certificate executed, without modification, by:

(i) The supplier of the commodity for the cost of the commodity and any commodity-related services furnished by the commodity supplier;

(ii) The carrier for the cost of ocean or air transportation financed by USAID;

(iii) The insurer for the cost of marine insurance financed by USAID if such cost exceeds $50.

(7) *Freight forwarder's invoice.* One copy of the freight forwarder's invoice, if any, marked PAID and containing a complete, individually priced itemization of all charges and fees billed by or through the forwarder.

(8) *Commodity approval application (form AID 11).* One signed original of the Commodity Approval Application executed by the commodity supplier and countersigned by USAID. In the case of a claim for reimbursement or payment for partial shipment presented subsequent to submission of the original Commodity Approval Application, one reproduced copy of the original countersigned Commodity Approval Application, appropriately certified as such by the supplier.

(b) *Execution of Certificates.* (1) The original of each Supplier's Certificate and Commodity Approval Application shall be signed by hand and shall bind the person or organization in whose behalf the execution is made.

(2) The Supplier's Certificate covering the cost of marine insurance may be executed on behalf of the marine insurer by an insurance broker or by a commodity supplier if the commodity supplier is the assured under an open cargo insurance policy issued by the marine insurer and is authorized under such policy to bind the marine insurer by issuing insurance certificates or policies in favor of importers. In each such case, the insurance broker or commodity supplier shall indicate on the Supplier's Certificate the name and address of the insurance company which is acting as the supplier of marine insurance and shall describe itself below its signature as a commodity supplier issuing a certificate under an open cargo insurance policy or as an insurance broker.

[55 FR 34232, Aug. 22, 1990, as amended at 64 FR 17535, Apr. 12, 1999]

§ 201.53 Final date for presentation of documents.

(a) *Direct reimbursement.* Prescribed documents shall be presented to USAID

by the borrower/grantee no later than the terminal date specified in the implementing document.

(b) *Letter of commitment to a bank.* Prescribed documents shall be presented by the bank to USAID and shall cover:

(1) Payments or negotiations made under letters of credit expiring no later than the expiration date stated in the letter of commitment, or

(2) Payments to a supplier, the approved applicant, or, at the request of an approved applicant, to a person other than the supplier, made no later than such expiration date.

(c) *Direct letter of commitment to supplier.* Documents prescribed for payment under a direct letter of commitment to a supplier shall be presented by the supplier to USAID no later than the expiration date stated therein. Such documents must evidence shipment no later than the terminal shipment date provided in the direct letter of commitment.

Subpart G—Price Provisions

§ 201.60 Purpose and applicability of this subpart.

This subpart prescribes rules relating to prices, discounts, commissions, credits, allowances, and other payments. These rules shall be observed in the procurement of commodities and commodity-related services financed under this part. The rules implement and supplement the requirements of the Act relating to prices in such procurement. The general purpose of these rules is to assure the prudent use of USAID funds.

(a) *Statutory price limitations.* (1) Section 604(a) of the Act provides *inter alia* that funds made available under this Act may be used for procurement outside the United States only if the price of any commodity procured in bulk is lower than the market price prevailing in the United States at the time of procurement adjusted for differences in the cost of transportation to destination, quality, and terms of payment.

(2) Section 604(b) of the Act provides that no funds made available under this Act shall be used for the purchase in bulk of any commodities at prices higher than the market price prevailing in the United States at the time of purchase, adjusted for differences in the cost of transportation to destination, quality, and terms of payment.

(b) *Transactions covered.* The rules and conditions prescribed by this subpart apply to all USAID-financed transactions subject to this regulation, whether or not the commodities are purchased in bulk.

(c) *Compliance.* Compliance with this subpart G and with any additional price requirement contained in the implementing document shall be a condition to the financing by USAID of procurement transactions under this part. Post-audit of transactions will be made by USAID to determine whether there has been such compliance.

§ 201.61 Meaning of terms in this subpart.

(a) *Class of purchaser* means any group of purchasers which is separately identifiable and which is distinguishable from other purchasers on the basis of quantity purchased, distribution function or established trade practice.

(b) *Commission.* See § 201.01(h).

(c) *Comparable domestic sale* means any comparable sale not in export transactions.

(d) *Comparable export sale* means any comparable sale in export transactions.

(e) *Comparable sale* means any sale of or bona fide offer to sell the same commodity, or (in the absence of such a sale or offer to sell) any sale of or offer to sell a similar commodity which, with respect to the quantity, quality, grade, period of delivery, supply area, terms of sale, or class of purchaser, either:

(1) Is not sufficiently different from the sale being tested to result customarily in a price different from the price in the sale being tested; or

(2) Can be related to the sale being tested through application of a customary price differential. A sale which is otherwise comparable to another sale is not rendered noncomparable by virtue of its being made out of a free port or bonded warehouse. The fact that a sale is made out of a free port or bonded warehouse shall not cause that

sale to differ from otherwise comparable sales with respect to terms of sale, supply area, or period of delivery.

(f) The *date the purchase price is fixed* means the date on which the parties agree on the price. If, however, the parties establish the price as of any other date which is subsequent to the date of such agreement and not later than the date of delivery, the term means such other date regardless of whether it precedes, coincides with or follows the legally effective date of the purchase contract.

(g) *Export differential* means the customary difference in price, if any, between domestic sales and otherwise comparable export sales.

(h) *Period of delivery* means the length of time between the date the purchase price is fixed or the date of the purchase contract, whichever is later, and the date by which delivery is to be completed.

(i) *Producer* means any person who grows, mines, manufactures, processes, or assembles a commodity in the form in which it is exported.

(j) *Purchase price* means the total amount which the purchaser agrees to pay or make available to or for the benefit of the supplier (including any person or organization designated by the supplier to receive such payment) for any commodity or commodity-related service which is wholly or partly financed by USAID.

(k) *Representative of the importer* means any entity affiliated with the importer by ownership or management ties, and any office or employee of such entity.

(l) *Similar commodity* means a commodity which is functionally interchangeable with the commodity in the sale being tested, and affords the purchaser substantially equivalent serviceability.

(m) *Supply area* means the source country, or if the commodity is customarily sold at different prices (exclusive of transportation costs) from different geographic areas within a source country, the specific geographic area within the source country from which the commodity is shipped to the cooperating country.

(n) *Time of purchase* means that period encompassing the date the purchase price is fixed during which prices in comparable sales remain substantially constant.

(o) *Transportation cost* means the cost of all transportation by land, sea, or air from the port of export to the destination in the cooperating country, plus the cost of marine insurance, if any, covering such transaction. Such costs are financed by USAID only to the extent provided in § 201.13.

§ 201.62 Responsibilities of borrower/grantee and of supplier.

(a) *Responsibilities of borrower/grantee.* The borrower/grantee shall:

(1) When required by USAID, develop and periodically update, or cooperate with USAID in the development and updating of, lists of importers who have traditionally imported the commodities which may be purchased under the loan or grant. Such listings shall be by commodity groupings selected by USAID, cover all commodities eligible for financing, and, to the extent such information is available, show the names and addresses of all importers, regardless of the source from which their imports originated.

(2) Insure that the importer

(i) Procures in accordance with the conditions set forth in subpart C as applicable, and

(ii) Except as provided otherwise in § 201.22, pays no more than the lowest available competitive price, including transportation cost, for the commodity.

(b) *Responsibility of supplier.* In accordance with the provisions contained in the Supplier's Certificate, which the supplier must execute in order to receive payment, the supplier is responsible for compliance with the provisions of this subpart G, other than paragraph (a) of this section.

§ 201.63 Maximum prices for commodities.

(a) *U.S. prevailing market price—U.S. source.* The purchase price for a commodity, the source of which is the United States, shall not exceed the market price prevailing in comparable export sales in the United States at the time of purchase, adjusted for differences in the transportation cost: *Provided, however,* That if there are no

such comparable export sales, then the purchase price, excluding transportation cost, may not exceed the market price prevailing in comparable domestic sales in the United States at the time of purchase, adjusted upward or downward by the appropriate export differential.

(b) *U.S. prevailing market price—non-U.S. source.* The purchase price, including transportation cost, for a commodity the source of which is not the United States shall be lower than the market price prevailing in comparable export sales in the United States at the time of purchase including transportation cost: *Provided, however,* That if there are no such comparable export sales in the United States, then the purchase price from the source outside the United States, including transportation cost, must be lower than the market price prevailing in comparable domestic sales in the United States at the time of purchase, adjusted upward or downward by the appropriate export differential and transportation cost.

(c) *Supplier's comparable export price—U.S. and non-U.S. sources.* (1) The purchase price excluding transportation cost, shall not exceed prices generally charged by the supplier in comparable export sales from the source country at the time of purchase.

(2) The requirement in paragraph (c)(1) of this section shall not apply to the purchase price:

(i) In any sale under formal competitive bid procedures; or

(ii) In any sale of a commodity generally traded on an organized commodity exchange.

(3) *Comparable export sales* for the purpose of paragraph (c) of this section shall not include sales:

(i) Under formal competitive bid procedures; or

(ii) Of a commodity by a supplier to affiliates if the supplier demonstrates an established practice of selling the commodity to affiliates at prices lower than the prices it charges to nonaffiliates.

(d) *Source country prevailing market price—non-U.S. source.* The purchase price, excluding transportation cost, shall not exceed the market price prevailing in the source country in comparable export sales at the time of purchase: *Provided, however,* That, if there are no such comparable export sales, then the purchase price, excluding transportation cost, shall not exceed the market price prevailing in comparable domestic sales in the source country at the time of purchase, adjusted upward or downward by the appropriate export differential.

(e) *Price test in the absence of comparable sales at time of purchase*—(1) *Sale by supplier who is not the producer.* The purchase price shall not exceed the sum of:

(i) The lower of the following: The price paid by the supplier for the commodity or the price charged by the producer in the original sale of that specific commodity; and

(ii) A markup over the amount allowed in paragraph (e)(1)(i) of this section which may not exceed the lower of the following: The markup over direct cost that is usual and customary in sales by the supplier of the same commodity, if any, or the most similar commodity, or, the markup over direct cost that is usual and customary in such sales by the competitors of the supplier; and

(iii) To the extent not included in paragraph (e)(1)(i) of this section an amount not to exceed the cost at prevailing rates of those expenses recognized in § 201.64(a) and actually incurred in moving the commodities supplied from the point of purchase to a position alongside or on board the vessel or other export conveyance at point of export.

(2) *Sale by a supplier who is the producer.* The purchase price shall not exceed a price established in accordance with the customary pricing practices of the supplier for other products of the same general class as the commodity sold.

(f) *Additional rules for sales through or out of a free port or bonded warehouse.* (1) The purchase price, including transportation costs to a cooperating country, of a commodity which has passed through a free port or bonded warehouse shall not exceed:

(i) The maximum price f.o.b. or f.a.s. source country eligible for USAID-financing under the foregoing provisions of this § 201.63: plus

(ii) Transportation cost calculated on the basis of the prevailing ocean freight rate for shipments using the most direct route from the source country to the cooperating country on the type and flag of vessel on which the commodity actually moved from the free port or bonded warehouse to the cooperating country.

(2) The purchase price of a commodity f.o.b. or f.a.s. a free port or bonded warehouse shall not exceed the maximum price established in paragraph (f)(1) of this section, minus transportation costs from the free port or bonded warehouse to the cooperating country, calculated on the basis of the prevailing ocean freight rate from the free port or bonded warehouse to the cooperating country for the type and flag of vessel on which the commodity actually moved between those points.

(g) *Commodity price subject to escalation.* If a purchase contract contains a price escalation clause, USAID will finance:

(1) The purchase price of the commodity before the operation of the escalation clause to the extent that it does not exceed the applicable price limitations contained in this subpart; and

(2) That portion of the commodity price attributable to the operation of the price escalation clause if such clause:

(i) Uses a formula based on variations in a cost factor which is reasonably related to the price of the commodity subject to escalation and is readily determinable;

(ii) Provides for downward as well as upward adjustment of the price; and

(iii) Accords with recognized trade practices.

§ 201.64 Application of the price rules to commodities.

(a) *Calculation of commodity prices on a common basis.* In testing whether the purchase price of a commodity exceeds the price in comparable export sales or in comparable domestic sales, as applicable under § 201.63 (a), (c), (d) and (e), it is necessary to insure that the price being tested as well as the prices being used as a test or measurement are calculated on the basis of delivery alongside or on board the vessel or other export conveyance. Such prices will include, therefore, in addition to the price of the commodity at an internal point in the source country, transportation from that point to the port of export in the source country, and to the extent not already included in the price at the internal point, inspection, export packing, forwarder's fees at customary rates, the cost of placing the commodities on board the vessel or export conveyance (unless this cost is covered in the export freight), and other necessary costs customary in the trade.

(b) *Calculation of commodity prices which involve transportation costs.* (1) In testing the purchase price which includes transportation cost (customarily known as a c. & f. or c.i.f. price) for compliance with the requirements of § 201.63 (a), (c), (d) and (e), USAID will subtract transportation cost as calculated by reference to the freight rate, for the type and flag of vessel on which the commodity was shipped, prevailing on the date the purchase price is fixed. In the absence of evidence to the contrary, the actual transportation cost paid by the supplier shall be presumed to be the transportation cost calculated in accordance with the formula contained in the foregoing sentence.

(2) In testing a purchase price involving transportation cost for compliance with § 201.62 and § 201.63(b), the test or measurement prices shall be:

(i) Prices based upon transportation by a U.S.-flag vessel if the price tested involves transportation by such vessel; or

(ii) Prices based upon transportation by either a U.S.-flag or a foreign-flag vessel, whichever is lower, if the price tested involves transportation by a foreign-flag vessel.

(c) *Calculation of amount eligible for financing when shipment is through or out of a free port or bonded warehouse.* (1) When a shipment to a cooperating country has passed through a free port or bonded warehouse, USAID will finance no more than the lower of the following:

(i) The maximum price described in § 201.63(f)(1), or

(ii) The maximum price described in § 201.63(f)(1)(i), plus any transportation costs into the free port or bonded warehouse which meet the requirements of § 201.13(b)(1)(i)(D), and any transportation costs out of the free port or bonded warehouse on a vessel flying the flag of a country included in the authorized geographic code.

(2) When a shipment is f.o.b. or f.a.s. a free port or bonded warehouse, USAID will finance no more than the lower of the following:

(i) The maximum price described in § 201.63(f)(2), or

(ii) The maximum price described in § 201.63(f)(1)(i), plus any transportation costs into the free port or bonded warehouse which meet the requirements of § 201.13(b)(1)(i)(D).

(d) *Determination of prevailing prices.* In the determination of any prevailing market price of any commodity or any prevailing price or maximum eligible freight rate for a commodity related service, relevant published and unpublished price information will be considered.

§ 201.65 Commissions, discounts and other payments, credits, benefits and allowances.

(a) *General.* This section sets forth the rules which govern the eligibility of commissions, discounts and certain other payments, credits, benefits and allowances for USAID-financing.

(b) *Commissions to sales agents.* Unless otherwise provided in the implementing document, a commission paid, or to be paid, to a bona fide agent of the supplier is eligible for financing under this part, if such agent either has made a direct and substantial contribution toward securing the purchase contract for the supplier or is engaged on a continuing basis in securing similar contracts for the supplier. Such commissions are eligible to the extent they comply with § 201.65(f).

(c) *Commissions and other payments, credits, benefits or allowances to importers, purchasing agents and others.* Unless otherwise authorized by USAID, no commission or other payment, credit, benefit or allowance of any kind shall be paid, made, or given, or agreed to be paid, made or given, in connection with any sale subject to this part by the supplier or its agent:

(1) To or for the benefit of the importer;

(2) To or for the benefit of a purchasing agent or other agent or representative of an importer, even though such agent or representative may also have an agreement with a supplier to represent the supplier; or

(3) To any third party in connection with a sale by the supplier to its dealer, distributor, or established agent in the cooperating country.

(d) *Trade discounts.* To arrive at the net amount eligible for USAID-financing, all trade discounts, whether in the form of payments, credits, or allowances, to which the importer is entitled shall be deducted from the gross amount of the supplier's invoice submitted under § 201.52(a)(2)(i)(D).

(e) *Commissions and other payments or benefits attributable to USAID-financing.* Every commission or other payment, credit, benefit, or allowance of any kind paid, made or given, or agreed to be paid, made or given, in connection with the sale of commodities financed under this part to any person described in § 201.65(c) (1), (2) or (3) shall be presumed conclusively to have been paid from USAID funds and shall thereby be subject to the requirements of this part 201.

(f) *Maximum commission.* A commission shall not exceed the lesser of the amount which the supplier customarily pays in connection with similar transactions or the amount which is customary in the trade.

(g) *Reporting.* All commissions and other payments, credits, benefits or allowances of any kind paid, made or given, or agreed to be paid, made or given, by the supplier in connection with USAID-financed sales of commodities and commodity-related services shall be fully reported on the Invoice-and-Contract Abstract of the Supplier's Certificate required under § 201.52(a)(6). Any such amounts not reported shall be ineligible for USAID-financing.

(h) *Brokerage commission.* In connection with ocean freight services, USAID will finance a brokerage commission only if:

(1) Such commission does not exceed 2½ percent of the ocean freight charge

(exclusive of deadfreight, demurrage and detention);

(2) Such commission is payable to an individual resident in a country included in the authorized source code; a non-resident citizen of a country included in the authorized source code; or a corporation or partnership organized under the laws of a country included in the authorized source code; and

(3) The names of all persons receiving such commissions appear on the face of the charter party.

(i) *Address commissions.* An address commission to or for the benefit of a charterer shall be deemed a discount on the stated freight rate or freight charge which the supplier of transportation services shall deduct from the cost of transportation financed by USAID. If the supplier of the commodity is the charterer, it shall refund to USAID any address commission received by it. If the supplier of the commodity is not the charterer, the borrower/grantee shall be responsible for making a refund to USAID of any such commissions received by the charterer.

§ 201.66 Side payments.

Any payment which an importer makes to a supplier, whether or not indicated on the supplier's invoice and whether or not financed by USAID, in connection with an USAID-financed transaction, shall be disclosed by the supplier on the Supplier's Certificate and shall be considered as part of the actual purchase price in applying the rules of this subpart G.

§ 201.67 Maximum freight charges.

(a) *Ocean freight rates*—(1) *Similar shipments. Similar shipments* means shipments which are similar with respect to type of commodity, commodity rate classification, quantity, vessel flag category (U.S.-or foreign-flag), choice of ports, and other pertinent factors. In determining whether shipments are similar, no effect shall be given to the identity of the shipper or the circumstance that the shipment is or is not financed by the Government of the United States.

(2) *Maximum charter rates.* (i) USAID will not finance ocean freight under any charter which has not been submitted to and received prior approval by USAID/W. USAID will not approve a charter if the freight rate exceeds:

(A) The rate prevailing for similar shipments; or

(B) The lowest rate charged by the vessel for similar shipments on the same voyage.

(ii) In determining the rate prevailing for similar shipments, recognized sources of charter market rate information will be consulted and, if necessary, will be supplemented by other information which contributes to a realistic determination of the prevailing charter rate.

(3) *Effect of USAID approval of a charter.* USAID prior approval of a charter shall be confirmed by USAID in writing and shall then be final except in cases where the freight rate exceeds the lowest rate charged by the vessel for similar shipments on the same voyage or where USAID's prior approval is based on false or misleading representations made to USAID by the charterer or vessel owner(s).

(4) *Maximum liner rates.* USAID will not finance ocean freight for a cargo liner shipment at a rate which exceeds the lowest of the following:

(i) The conference contract rate or the conference noncontract rate, whichever is lower;

(ii) The rate named in any tariff or other rate listing for the same destination and commodities on file at the Federal Maritime Commission; or

(iii) The lowest rate charged by the VOCC for similar shipments on the same voyage.

(5) *Despatch.* (i) The borrower/grantee, or the supplier with respect to despatch earned by the supplier, shall be responsible for refunding to USAID all despatch earned:

(A) At the port of unloading on c.i.f. or c. & f. shipments, or

(B) At the port of loading or unloading on f.o.b. or f.a.s. shipments, to the extent that despatch exceeds demurrage incurred on the same voyage.

(ii) Refunds of despatch, supported by the vessel's signed laytime statement(s), must be transmitted to the Office of Financial Management, USAID, Washington, DC 20523–7702, within 90 days after date of discharge of cargo on which the despatch was earned.

(b) *Airfreight rates*. USAID will not finance airfreight which exceeds the following:

(1) The rate under any air charter approved by USAID covering the transaction;

(2) The lowest rate charged by the carrier for similar shipments on the same flight; or

(3) The rate prevailing in the industry for similar shipments. A similar shipment is one which is similar with respect to type of commodity, commodity rate classification, quantity, flag category, choice of airport, and other pertinent factors.

[55 FR 34232, Aug. 22, 1990, as amended at 64 FR 17535, Apr. 12, 1999]

§ 201.68 Maximum prices for commodity-related services.

(a) The price for an USAID-financed commodity-related service, other than ocean or air transportation, shall not exceed the lower of:

(1) The prevailing price, if any, for the same or similar services; or

(2) The price paid to the supplier under similar circumstances by other customers.

(b) The eligible price of services covered by an NVOCC bill of lading is limited to the sum of the costs of individual delivery services eligible under § 201.13 of this part, and only to the extent that the cost of each such service is eligible for USAID-financing under § 201.67 or § 201.68(a) of this part.

§ 201.69 Cooperating country taxes and fees.

USAID will not finance any taxes or fees imposed under the laws in effect in the cooperating country, including customs duties, consular and legalization fees, and other levies.

Subpart H—Rights and Responsibilities of Banks

§ 201.70 Purpose.

This subpart sets forth the rights and responsibilities of banks with regard to reimbursement under a letter of commitment opened pursuant to an USAID request. Banks will not be held responsible for the requirements of subparts B, C, D, E (excluding § 201.44(a)(1)), and subpart G except insofar as provisions of these subparts are included in this subpart H or in a letter of commitment issued by USAID to a bank.

§ 201.71 Terms of letters of credit.

Any letter of credit issued, confirmed or advised under an USAID letter of commitment and any agreement relating to such letter of credit or to instructions for payment issued by an approved applicant shall not be inconsistent with or contrary to the terms of the letter of commitment. Any such letter of credit or agreement may be modified or extended at any time in such a manner and to such extent as is acceptable to the approved applicant and the bank: *Provided*, That such modification or extension may not be inconsistent with or contrary to the terms of the letter of commitment. In the case of any inconsistency or conflict between the terms and conditions of the letter of commitment and the instructions of the approved applicant, the terms and conditions of the letter of commitment shall control.

§ 201.72 Making payments.

(a) *Collection of documents*. The bank shall be responsible for obtaining the documents specified in subpart F and in the letter of commitment when making payment under a letter of credit pursuant to instructions of an approved applicant.

(b) *Examination of documents other than Supplier's Certificate*. The bank shall examine the documents (other than the Supplier's Certificate and the Commodity Approval Application) to be submitted to USAID in accordance with good commercial practice to determine whether such documents comply with the requirements of paragraphs (b) (1) through (7) of this section in the following particulars, and no other.

(1) *Shipment*. The documents submitted as evidence of the shipment of commodities under § 201.52(a)(4) shall be dated within the shipping period, if any, specified in the letter of commitment. The bill of lading shall contain the carrier's statement of charges whether or not freight is financed by USAID.

(2) *Source of commodities.* The documents submitted in connection with the claim for reimbursement on commodities may not indicate that the source of the commodities is inconsistent with the USAID geographic code designation contained in the letter of commitment.

(3) *Destination.* The documents submitted shall indicate that the destination of the commodities, by shipment, transshipment, or reshipment, is the cooperating country named in the letter of commitment.

(4) *Description.* The documents shall describe and identify the commodities or services in a manner which, according to good commercial practice, is not inconsistent with the description contained in the letter of credit or payment instructions issued under a letter of commitment. The bank shall not be required to determine whether the supplier's invoice meets the detailed requirements of § 201.52(a)(2)(i).

(5) *Discounts and purchasing agents' commissions.* If the documents disclose that the invoice price includes either discounts or commissions payable to purchasing agents, the bank shall not make payment of such discounts and commissions. In the absence of such information, however, the bank shall not be required to make independent inquiry as to whether the invoice price includes such items.

(6) *Certifications.* Each supplier's invoice presented for payment shall contain such other certifications as may be required in the letter of commitment. The bank shall accept only certifications which, to the best of its knowledge and belief, have been signed by hand.

(7) *Other requirements.* The documents submitted shall contain such other information as required by the letter of commitment, except that the bank shall have responsibility in this regard only to the extent specifically indicated in the letter of commitment.

(c) *Acceptance of certificates.* A bank shall not accept for submission to USAID the original of the Supplier's Certificate, or the Commodity Approval Application, unless, to the best knowledge and belief of the bank, each such original has been signed by hand by the supplier and the Commodity Approval Application has been countersigned by USAID.

§ 201.73 Limitations on the responsibilities of banks.

The following general limitations on the responsibilities of banks issuing, advising, or confirming letters of credit and making payments under letters of credit or otherwise shall apply.

(a) *Sufficiency and completeness of documents.* Any document, including the Supplier's Certificate and the Commodity Approval Application, submitted by a bank to USAID in support of a claim for reimbursement, shall be sufficient if it purports to be the sort required to be delivered and if it has been accepted by the bank in the ordinary course of business in good faith. Except as may be required in the discharge of its responsibilities under § 201.72 (b) and (c), the bank's right of reimbursement shall not be affected by the fact that any document required to be submitted by it is incomplete or may indicate noncompliance with any provision of this part.

(b) *Reimbursement right notwithstanding certain deficiencies.* A bank's right to reimbursement from USAID for payments which the bank has made will not be affected by the fact that the Commodity Approval Application or the Invoice-and-Contract Abstract on the reverse of the Supplier's Certificate may be incomplete, or may indicate noncompliance with any provision of this part 201, the letter of commitment, or any other implementing document, or may be inconsistent with other documents required for reimbursement.

(c) *Nonresponsibility of bank for truth or accuracy of statements or certifications.* The bank shall not be responsible for the truth or accuracy of any information or statement contained in any Supplier's Certificate or any other document certification to be submitted by it to USAID, notwithstanding any knowledge or information in the actual or constructive possession of the bank to the contrary. The bank shall not be obligated to look beyond the documents, including any certifications endorsed thereon, to be submitted by it or to make any independent investigation as to the truth or accuracy of any

information or statement contained therein.

(d) *Protection of bank making payment.* Acceptance by the bank of any document in the ordinary course of business in good faith as being a genuine and valid document and sufficient in the premises, and the delivery thereof to USAID, shall constitute full compliance by the bank with any provision of this part, the letter of commitment requiring delivery of a document of the sort that the document actually so delivered purports to be. The bank shall be entitled to receive and retain reimbursement of the amount of all payments made by it against documents so accepted, notwithstanding that such payments may be made in connection with a purchase in excess of the price calculated in accordance with the applicable provisions of subpart G.

(e) *Payment to third persons.* The bank's right of reimbursement shall not be affected by the fact that payment is made to the approved applicant or at the request of the approved applicant or such beneficiary to a person other than the supplier under the contract to which such payment relates, if the bank has complied with all other requirements of the letter of commitment and has satisfied itself in good faith that the person to whom it makes payment has, in turn, made payment to the supplier.

(f) *Bank procedures with regard to certain suppliers.* In the event a bank receives written advice from USAID concerning special conditions which are applicable to transactions of particular suppliers, such bank will use reasonable care to maintain procedures designed to ensure that accommodations thereafter furnished by it with respect to such suppliers by means of the issuance, confirmation, advising or transfer of letters of credit, or the making of payments not under letters of credit shall reflect such special conditions. While banks are expected to comply with the foregoing obligation, a bank which has used reasonable care to establish and maintain such procedures will not be responsible for any inadvertent furnishing of any such accommodation not containing applicable special conditions or the making of payment thereunder. For the purpose of ascertaining whether the supplier is a person or organization subject to an USAID advice concerning special conditions applicable to its transactions under this paragraph, a bank, in making payment under a letter of credit or otherwise, may consider as supplier the person or organization issuing the invoice.

(g) *Provision of implementing documents.* A bank shall not be responsible for compliance with any provision of an implementing document other than a letter of commitment.

§ 201.74 Additional documents for USAID.

In addition to the documents required for reimbursement, a bank shall retain in its files for a period of at least 3 years and shall make available to USAID promptly upon request a copy of any of the following documents which may pertain to an USAID-financed transaction:

(a) Each letter of credit issued, confirmed, or advised by it, together with any extension or modification thereof;

(b) Payment instructions received from the approved applicant;

(c) Each application and agreement relating to such letter of credit or instructions for payment, together with any extension or modification thereof;

(d) A detailed advice of the interest, commissions, expenses, or other items charged by it in connection with each such letter of credit or payment instructions.

§ 201.75 Termination or modification.

If USAID directs that the delivery of commodities be terminated, orders that title to commodities be vested in it, or modifies any implementing document concerning the disposition of documents, USAID shall give written notice thereof to the banks holding applicable letters of commitment and shall instruct each bank with regard to the disposition of documents. Each such bank shall be relieved of any liability whatsoever to the approved applicant for anything done or omitted to be done under instruction of USAID. Notwithstanding the foregoing, a bank shall comply with the instructions of USAID only to the extent that it may do so without impairing or affecting

any irrevocable obligation to any person or organization except an approved applicant, and in the event the bank shall incur any costs, expenses, or liabilities, including any liability to the approved applicant, it shall be repaid and reimbursed by USAID in respect thereof.

Subpart I—Rights and Remedies of USAID, and Waiver Authority

§ 201.80 Purpose.

This subpart sets forth certain USAID rights and remedies against borrower/grantees and suppliers, and prescribes certain general provisions relating to the waiver by USAID of this part.

§ 201.81 Rights of USAID against borrower/grantees.

If any transaction financed hereunder violates the requirements of this part or any U.S. statute or any rule or regulation of USAID promulgated under any such statute, USAID may require the borrower/grantee to refund the amounts USAID determines are attributable to such violation and may exercise any right of acceleration or termination contained in the implementing document. The borrower/grantee shall be deemed to have agreed to make such refund or accelerated payment promptly upon request by USAID and shall be deemed to have consented to any modification of the implementing document determined by USAID to be necessary to reflect any such refund or acceleration.

§ 201.82 Rights of USAID against suppliers.

Without limiting the responsibility of the borrower/grantee or other parties, USAID may require an appropriate refund to it by a supplier under any transaction which violates the requirements of this part, whenever in USAID's opinion the failure of the supplier to comply with the rules and other requirements of this part has contributed to such violation. Any refund requested will include interest from the time of payment to the supplier. Interest will be charged at the rate established by the Secretary of the Treasury in accordance with the Internal Revenue Code, 26 U.S.C. 6621(b).

§ 201.83 No waiver of alternative rights or remedies by USAID.

No right reserved to USAID in this subpart to seek a refund from a borrower/grantee, and no exercise of such right, whether or not successful, shall in any way limit or affect, under the doctrine of the election of remedies or otherwise, USAID's rights against a supplier under this subpart I or under the laws of the United States, or of any other country or political subdivision thereof, nor shall any right or remedy herein reserved to USAID against a supplier in any way derogate from or otherwise limit any other rights or remedies which may accrue to USAID under such laws.

§ 201.84 Limitation on period for making refund requests.

USAID will endeavor, but shall not be bound, to make any requests for refunds from a borrower/grantee within three years from the date of the last disbursement of USAID funds for the transaction to which such request relates.

§ 201.85 Legal effect of USAID approvals and decisions.

In any transaction subject to this part 201, USAID may reserve certain rights to approve the transaction for USAID-financing. USAID, in reserving any approval rights, acts solely as a financing entity to assure the proper use of United States Government funds. Any decision by USAID to exercise or refrain from exercising these approval rights shall be made as a financier and shall not be construed as making USAID a party to the contract or incurring any liability to the parties jointly or to any of them.

§ 201.86 Waiver and amendment authority.

USAID may waive, withdraw, or amend at any time any or all of the provisions of this part.

APPENDIX A TO PART 201—SUPPLIER'S CERTIFICATE AND AGREEMENT WITH THE AGENCY FOR INTERNATIONAL DEVELOPMENT (AID 282)

INVOICE-AND-CONTRACT ABSTRACT

1. COMMODITY SUPPLIER'S NAME AND ADDRESS	2. FOR A.I.D. USE 3. A.I.D. IMPLEMENTATION NUMBER
4. IMPORTER'S NAME AND ADDRESS	

5. VESSEL	6. FLAG	7. PORT OF LOADING

8. COMMODITY INFORMATION		
a. Description of Commodity and Schedule B No.	b. Gross Weight	c. Measurement

9. INVOICE INFORMATION	10. CONTRACT INFORMATION	11. SUPPLIER INFORMATION	
a. Number	a. Number	a. Small Business ☐ Yes ☐ No (Complete b)	b. Estimated Value (% of Block 9c) Furnished From Small Businesses _____%
b. Date	b. Date	c. Socially and Economically Disadvantaged Enterprise ☐ Yes ☐ No (Complete d)	d. Estimated Value (% of Block 9c) Furnished From Socially and Economically Disadvantaged Enterprises _____%
c. Amount After Discount	c. Total Amount	e. Women-Owned Business ☐ Yes ☐ No (Complete f)	f. Estimated Value (% of Block 9c) Furnished From Women-Owned Business _____%
	d. Source/Origin (Country)		

12. INSURANCE INFORMATION		13. TRANSPORTATION INFORMATION	
a. Insured Value	c. ☐ All-Risk Rate_____ ☐ War Risk Rate_____ ☐ Other (Specify) _____ Rate_____	a. Vessel Type ☐ Bulk ☐ Berth ☐ Tnkr. ☐ Air	d. Freight Rate
b. Premium		b. B/L or Air Waybill Number	Other Freight Charges
		c. B/L or Air Waybill Date	Total Freight Charges

14. INFORMATION AS TO COMMISSIONS, CREDITS, ALLOWANCES, SIMILAR PAYMENTS, AND SIDE PAYMENTS		
a. Recipient's Name	b. Recipient's Address	c. Amount Paid or To Be Paid

15. ADDITIONAL INFORMATION AND REMARKS	16. If Certification On Other Side Is Made By ☐ Carrier Or ☐ Insurer, Type Or Print Name And Address Of Company.

AID 282 (5-90) (OMB No. 0412-0012 Exp. 11/30/91) Page 1

SUPPLIER'S CERTIFICATE AND AGREEMENT WITH THE AGENCY FOR INTERNATIONAL DEVELOPMENT

The supplier hereby acknowledges that the sum claimed on the accompanying invoice to be due and owing under the terms of the purchase contract identified on the reverse hereof ('said contract') is to be paid, in whole or in part, out of funds made available by the United States Agency for International Development (A.I.D.) under the Foreign Assistance Act of 1961, as amended. In consideration of the receipt of such sum, the supplier agrees with and certifies to A.I.D. as follows:

1. The undersigned is the supplier of the commodities or commodity-related services indicated in the Invoice-and-Contract Abstract on the reverse hereof, has complied with the applicable provisions of Regulation 1 (22 CFR Part 201), as in effect on the date hereof is entitled under said contract and under the applicable letter of credit, credit advice, or other payment instructions to payment of the sum claimed, and is executing this Certificate and Agreement to obtain such payment from A.I.D. funds.

2. On the basis of information from such sources as are available to the supplier upon reasonable investigation and to the best of its information and belief, the purchase price is not higher than the maximum price permitted under each of the applicable price rules of suabpart G of A.I.D. Regulation 1.

3. The supplier will, upon request of A.I.D., promptly refund to A.I.D. any amount by which the purchase price exceeds the maximum price permitted under such provisions of subpart G of Regulation 1, plus interest from the time of payment to the supplier.

4. The supplier will, upon request of A.I.D., promptly make appropriate refund to A.I.D., plus interest from the time of payment to the supplier, in the event of

(a) its nonperformance, in whole or in part, under said contract, or including any failure to pay despatch or

(b) any breach by it of any of its undertakings in this Certificate and Agreement, or

(c) any false certification or representation made by it in this Certificate and Agreement or in the Invoice-and-Contract Abstract on the reverse hereof.

5. The amount shown on the reverse hereof in block 9c is net of all trade discounts, whether in the form of payments, credits, or allowances by the supplier or its agent to or for the account of the importer, including quantity and prompt payment discounts allowed other customers under similar circumstances. The supplier will promptly pay to A.I.D. (Office of Financial Management, A.I.D., Washington, D. C. 20523-0209) any adjustment refunds, credits, or allowances which hereafter become payable to or for the account of the importer arising out of the terms of said contract or the customs of the trade.

6. The supplier has complied with the provisions of Section 201.65 of A.I.D. Regulation 1 and has not compensated any person to obtain said contract except to the extent, if any, indicated on the reverse hereof.

7. The supplier or its agent has not given or received and will not give or receive a side payment, "kickback", commission, or any other payment, credit, allowance or benefit of any kind in connection with the said contract or any transaction or series of transactions of which said contract is a part, other than those payments or benefits permitted under Section 201.65 of A.I.D. Regulation 1 and those referred to in paragraphs 1 and 5 above.

8. Any commodity supplied under said contract

(a) is accurately described on the reverse hereof and, unless otherwise authorized by A.I.D., is new and unused, is not rebuilt or reconditioned, does not contain any rebuilt or reconditioned components, and has not been disposed of as surplus by any government agency; and

(b) on the basis of information from such sources as are available to the supplier upon reasonable investigation, and to the best of its information and belief, meets the requirements of Section 201.11(b) of A.I.D. Regulation 1 as to source, country where mined, grown, or produced, and limitation on components.

9. If the supplier is the producer, manufacturer, or processor of the commodity, said contract is not a cost-plus-percentage-of-cost contract.

10. The supplier will for a period of not less than three (3) years after the date hereof maintain all business records and other documents which bear on its compliance with any of the undertakings and certifications herein and will, at any time requested by A.I.D., promptly make such records and documents available to A.I.D.for examination and promptly furnish to A.I.D. additional information in such form as A.I.D. may request concerning the purchase price, the cost to the supplier of the commodities and/or commodity-related services involved, and/or any other facts, data, or business records relating to the supplier's compliance with its undertakings and certifications in this certificate and agreement.

11. The supplier has complied with the provisions contained and referred to in subpart D of A.I.D. Regulation 1.

12. The supplier was not ineligible to act as a supplier or otherwise participate in A.I.D.-financed transactions at the time of approval of the A.I.D. Commodity Approved Application.

13. The commodity supplier certifies that it has submitted a copy of every ocean bill of lading, applicable to the commodities and transactions described on the reverse hereof to: (i) the Maritime Administration, National Cargo Division, 400 Seventh Street, S. W., Washington, D. C. 20590-0001; and (ii) Office of Procurement, Transportation Division, A.I.D., Washington, D. C. 20523-1419; and that such bill(s) of lading state all the carrier's charges including the basis for calculation such as weight or cubic measurements.

14. The supplier has filled in all applicable portions of the Invoice-and-Contract Abstract on the reverse hereof and certifies to the completeness and correctness of the information shown therein.

PERSONAL CERTIFICATION BY NATURAL PERSON SIGNING THIS CERTIFICATE AND AGREEMENT

The natural person who signs this Certificate and Agreement hereby certifies either that he/she is the supplier or that he/she has actual authority to sign on behalf of the supplier and to bind the supplier with regard to all certifications and agreements contained in this Certificate and Agreement. He/she further certifies, if he/she is not personally the supplier, that he/she is either an employee of the supplier or has written power of attorney to sign for and bind the supplier. He/she acknowledges signing and submitting this Certificate and Agreement to receive payment from A.I.D. funds and that A.I.D. in making such payment will rely on the truth and accuracy of this Personal Certificate as well as of all other representations in this Certificate and Agreement.

The Supplier's Certificate and Agreement and the Personal Certificate herein shall be governed by and interpreted according to the laws of the United States of America.

_____
Type or print name and title of official authorized to sign

_____
Signature of official authorized to sign for (check one) Date

☐ Commodity Supplier ☐ Carrier ☐ Insurer

_____
Place executed (City, County, State, Country)

NOTES: (a) Any amendments of or additions to the printed provisions of this Supplier's Certificate and Agreement are improper and will not be considered a part hereof. (b) False statements herein are punishable by United States Law. (c) The word "Copy" must be written after the signature on all copies other than the original.

INSTRUCTIONS FOR COMPLETING FORM AID 282

PAPERWORK REDUCTION ACT NOTICE. Information furnished will be used to verify compliance with legal requirements, as a basis for recourse in the event of noncompliance, and to monitor participation in A.I.D. programs. It will be disclosed outside A.I.D. only as provided by law. Submission of this information has been determined to be necessary to receive payment from A.I.D. funds pursuant to 22 U.S.C. 2381.

Public reporting burden for this collection of information is estimated to average thirty minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to:

Agency For International Development
Office of Procurement Policy, Planning
& Evaluation, MS/PPE
Washington, D. C. 20523-1435;
and
Office of Management and Budget
Paperwork Reduction Project (0412-0020)
Washington, D. C. 20503

EXECUTION OF FORM. This form is designed for use with the U.S. Standard Master for International Trade. An original and one (1) copy of this form, completed by the following suppliers, as applicable, must accompany each invoice for which payment is requested:

(a) Commodity Supplier - executed by the commodity supplier covering the cost of the commodity, including the cost of any commodity-related service paid by the commodity supplier for its own or the buyer's account;

(b) Transportation Supplier (Carrier) - executed by each carrier or in the case of a through Bill of Lading, the issuing carrier, for the cost of the ocean or air transportation financed by A.I.D., whether or not the transportation is paid by the commodity supplier;

(c) Insurance Supplier (Insurer) - executed by the insurer (or under the circumstances set forth in Section 201.52(b) (2) of A.I.D. Regulation 1, by an insurance broker or the commodity supplier), whether or not the insurance is paid by the commodity supplier, for the cost of marine insurance financed by A.I.D. when such cost exceeds $50.

The original *must* be signed by a person authorized by the supplier who shall indicate his/her title and certify to his/her authority.

LANGUAGE. The form must be completed in the English language *only* and all amounts of money must be shown in U.S. dollars.

OBTAINING FORMS. The form (as well copies of A.I.D. Regulation 1 referenced in this form) may be obtained in limited quantities from banks holding A.I.D. Letters of Commitment, from district offices of the Department of Commerce, the A.I.D. office in the supplier's country, or the Resources Management Division, Agency for International Development, Washington, D. C. 20523-1410. The form may be reproduced, providing the reproduction is identical in size and format.

INSTRUCTIONS FOR COMPLETING ENTRIES ON INVOICE-AND-CONTRACT ABSTRACT

GENERAL INSTRUCTIONS

Except as provided in the instructions for specific blocks, suppliers must complete all blocks or enter the letters 'NA' (Not Applicable), as follows:

Commodity Supplier - Complete all Blocks except 12 and 13; however, if the commodity supplier has paid for the transportation and/or insurance for its own or the buyer's account, Blocks 12 and/or 13 will also be completed by the commodity supplier. Block 11 is to be completed only when the address in block 1 is a U.S. address.

Transportation Supplier (Carrier) - Complete Blocks 1 through 8 as well as 13, 14, and 16.

Insurance Supplier (Insurer) - Complete Blocks 1 through 8a as well as 12, 14, and 16.

INSTRUCTIONS FOR INDIVIDUAL BLOCKS

Block 1: Enter the commodity supplier's name and address. *Caution: if the form is executed by the carrier or the insurer, enter the commodity supplier's name and address in Block 1 and complete Block 16.*

BLOCK 2: For A.I.D. use *only*.

BLOCK 3: Enter A.I.D. implementing document number furnished in the Letter of Credit or Importer's instructions. This number will normally be the Letter of Commitment number.

BLOCK 4: ENTER THE IMPORTER'S NAME AND ADDRESS. *Caution: on other documents prepared from the Standard Master, such as the Bill of Lading, the corresponding block may call for the name and address of the party whom the carrier is to give notice of arrival. When such party is not the importer; be sure to enter the importer's name and address.*

BLOCK 5: Enter the name of the vessel.

BLOCK 6: Enter the flag of registry.

BLOCK 7: Enter the port shown on the Bill of Lading.

BLOCK 8: COMMODITY INFORMATION

a. Enter the description of each commodity and its U.S. Department of Commerce Schedule B number, if available. For multi-item invoices, enter a summary description of the group of items and the appropriate Schedule B number (s), if available.

b. Enter the Bill of Lading weight.

c. Enter the Bill of Lading measurement.

BLOCK 9: INVOICE INFORMATION

a. Enter the number of the accompanying invoice to which this abstract relates.

b. Enter the invoice date.

c. Enter the net amount for which the supplier seeks payment (*see paragraphs 5 and 6 of the Supplier's Certificate*).

BLOCK 10: CONTRACT INFORMATION

a. Enter the contract number.

b Enter the date of the contract.

c. Enter the total contract amount

d. Enter the country of source as defined in Section 201.01 of A.I.D. Regulation 1.

BLOCK 11: SUPPLIER INFORMATION

Complete *only* when a U.S. address is indicated in Block 1. The information is required to enable A.I.D. to compile reports requested by Congress.

a. Indicate whether the supplier is a small business concern as defined in FAR 19.101 (CFR Title 48). "Small business concern" means a concern, including its affiliates, that is independently owned and operated (for profit), not dominant in its field of operations, and qualified as a small business under the criteria and size standards in 13 CFR 121 (see FAR 19.102). If there is no size standard in 13 CFR 121 for the industry, field of operation, or activity in which a concern is engaged, the concern is a small business if, including its affiliates, it is independently owned and operated (for profit), is not dominant in the field of operation, and, for manufacturing concerns -- has no more than 500 employees, or for concerns offering services -- its average annual receipts for its preceding 3 fiscal years do not exceed $3.5 million.

b. If the supplier is not a small business, enter the best estimate of the percentage of the total invoice amount paid or to be paid to subcontractors or suppliers of components who are small business concerns.

c. Indicate whether the supplier is an socially and economically disadvantaged enterprise. "Socially and economically disadvantaged enterprise" means a business-

(i) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by one or more socially disadvantaged individuals, and

(ii) whose management and daily business operations are controlled by one or more such individuals.

"Socially disadvantaged" individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their qualities as individuals.

INSTRUCTIONS FOR COMPLETING FORM AID 282

"Economically disadvantaged individuals" means socially disadvantaged individuals whose ability to compete in the free enterprise system is impaired due to diminished opportunities to obtain capital and credit as compared to others in the same line of business who are not socially disadvantaged. Women and individuals who certify that they are members of named groups (Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent-Asian Americans) are to be considered socially and economically disadvantaged.

"Subcontinent Asian Americans" means United States citizens whose origins are in India, Pakistan, Bangladesh, Sri Lanka, Bhutan, or Nepal.

"Asian Pacific Americans" means United States citizens whose origins are in Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territory of the Pacific Islands (Republic of Palau), the Northern Mariana Islands, Laos, Kampuchea (Cambodia), Taiwan, Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Republic of the Marshall Islands, or the Federated States of Micronesia.

"Native Americans" means American Indians, Eskimos, Aleuts, and native Hawaiians.

d. If the supplier is not a socially and economically disadvantaged enterprise, enter the best estimate of the percentage of the total invoice amount paid or to be paid to subcontractors or suppliers of components who are socially and economically disadvantaged enterprises.

e. Indicate whether the supplier is a women-owned business. "Women-owned business " means a business which is at least 51 percent owned by one or more women who are United States citizens and who also control and operate the business.

f. If the supplier is not a women-owned business, enter the best estimate of the percentage of the total invoice amount paid or to be paid to subcontractors or suppliers of components who are women-owned businesses.

BLOCK 12: INSURANCE INFORMATION

COMPLETE BLOCK 12 *only* if the insurance premium exceeds $50.

a. Enter the insured value of the shipment.

b. Enter the total premium.

c. Enter the type of coverage and insurance rate. If "Other" is checked, explain below or in Block 15.

BLOCK 13: TRANSPORTATION INFORMATION

a. Check vessel type.

b. Enter Bill of Lading or air waybill number.

c. Enter Bill of Lading or air waybill date.

d. Enter the freight rate, other freight charges and the total dollar amount of freight charges after discount.

BLOCK 14: INFORMATION AS TO COMMISSIONS, CREDIT, ALLOWANCES, SIMILAR PAYMENTS AND SIDE PAYMENTS

Enter information on (a) all commissions and other payments, credits, allowances or benefits of any kind, paid or to be paid by the supplier to or for the benefit of its agent, the importer, or the importer's agent as required by Section 201.65 of A.I.D. Regulation 1; and (b) any side payments, not shown on the invoice, made or to be made by the importer to the supplier, in connection with the transaction, as required by Section 201.66 of A.I.D. Regulation 1. If there is insufficient space to furnish the required information in block 14, continue in block 15 or enter "Continued" or "See attached" in block 14a, and attach a separate sheet to the form. If no commissions or other payments, credits, allowances, benefits, or side payments are involved, enter "NONE" in block 14.

BLOCK 16: If the Supplier's Certificate is completed by the carrier or insurer, check the appropriate box and print or type carrier's or insurer's name and address.

DO NOT INCLUDE THE INSTRUCTIONS ON PAGES 3 AND 4 WITH THE SUBMISSION OF THE COMPLETED FORM.

APPENDIX B TO PART 201—APPLICATION FOR APPROVAL OF COMMODITY ELIGIBILITY (AID 11)

OMB No. 0412-0004
Expiration Date: 5/31/93

APPLICATION FOR APPROVAL OF COMMODITY ELIGIBILITY | **Transaction No.** *(Assigned by A.I.D.)*

TRANSACTION IDENTIFICATION

1. AID No.	2. Payment Terms			
	Letter of Credit		Name and Address of U.S. Bank	Other Payment Terms
	No.	Date		

3. Import License		4. Supplier's Relationship to Authorized Source Country
No.	Date	☐ Corporation or Partnership Organized under Source Country Laws ☐ Individual: Citizen or Permanent Resident of Source Country ☐ Controlled Foreign Corporation ☐ Other

5. Supplier's Name and Address	6. Importer's Name and Address

7. Contract		8. Shipping Plans at Time of Application			
Total Amount	Date	a. Partial Shipment ☐ No ☐ Yes $ _____	b. Loading Port	c. Destination Port	d. Month(s) of Shipment

COMMODITY IDENTIFICATION

9. Schedule B 10-Digit Code(s)	10. Commodity Description, Quantity, Size	11. Unit and Unit Price, FAS/FOB Vessel *(Named Port of Loading)*
(a)		
(b)		
(c)		
(d)		
(e)		

12. Commodity Condition:
- ☐ New and Unused
- ☐ Used - Not Rebuilt or Reconditioned
- ☐ Rebuilt
- ☐ Reconditioned
- ☐ Other

13. Source			14. Components		
a. Authorized Area	b. Shipped From	c. Produced In	a. From Other than 13.a Source ☐ Yes ☐ No	b. If 14.a is "Yes", Country Imported From	c. Cost Per Unit of 14.b Components

AID 11 (6-90)

AID 11 (6-90) Back

OMB No. 0412-0004
Expiration Date: 5/31/93

15. Remarks and Additional Information

16. SUPPLIER'S CERTIFICATIONS

As a condition for securing a determination of commodity eligibility for funds made available by the United States under the Foreign Assistance Act of 1961, as amended, in payment in whole or in part in the transaction described and for the commodity identified on this form, the undersigned, acting on behalf of the supplier whose name appears in block 5 above and authorized to bind the supplier, agrees with and certifies to A.I.D. as follows:

1. The supplier has contracted with the importer named in block 6 for the purchase of the commodity described on this form, and the supplier has either attached to this form a copy of such contract or has furnished in block 2 information concerning a letter of credit confirmed or advised in its favor under a payment obligation assumed by the importer in the contract.

2. The supplier has filled in the applicable portions of this form and certifies to the correctness of the information shown herein.

3. The supplier agrees that the commodity will be shipped and invoiced in accordance with the information shown herein; that if any change in commodity identification takes place after A.I.D. has approved this transaction, the supplier will resubmit this form to A.I.D. for review and further approval for financing in light of the changed commodity; and that this Commodity Approval Application which the supplier proposes to use as a basis for securing payment from A.I.D. funds, is in every respect the original or true copy of the original application approved by A.I.D. The supplier acknowledges that any commodity, other than a commodity described on this form by the supplier and approved by A.I.D. below, is ineligible for A.I.D. financing with respect to the purchase transaction for which this form must be submitted as a condition for payment.

4. The supplier certifies that it is an individual citizen or lawfully admitted permanent resident of a country included in the authorized source code; a corporation or partnership organized under the laws of a country included in the authorized source code and with a place of business in such country; or a controlled foreign corporation (within the meaning of § 957 et seq. of the Internal Revenue Code) as attested by current information on file with the Internal Revenue Service of the United States (on IRS Form 959, 2952, 3646, or any substitute or successor forms) submitted by shareholders of the corporation, or a joint venture or unincorporated association consisting entirely of individuals, corporations or partnerships which fit any of the foregoing categories. If the supplier is a controlled foreign corporation without a regular place of business in the United States, the supplier appoints any shareholder or officer thereof agent for the supplier to receive service of process in the United States in connection with any dispute arising between the supplier and A.I.D. and relating to the commodity sale financed by A.I.D.

5. The supplier has not, at the time of submission of this application, been debarred or suspended by A.I.D. or placed on the "Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs," published by the General Services Administration, or the Treasury Department's "Consolidated List of Designated Nationals", and thereby rendered ineligible to receive A.I.D. funds. To the best of its knowledge upon reasonable investigation, the supplier has not acquired, nor will it acquire, for resale under A.I.D. financing the goods described on this form from any supplier included on the "Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs," or included on the Treasury "Consolidated List of Designated Nationals" or from any affiliate of such a person.

6. The supplier acknowledges that this application, when approved, is not valid for shipments having a delivery date on or after the expiration date shown below.

Typed or Printed Name and Title | *Signature of Authorized Representative of Supplier* | *Date*

17. A.I.D. APPROVAL

By the signature and seal which appear below, A.I.D. has given limited approval to the sale described on this form. This approval is limited strictly to a determination that the commodity which the supplier has described is of a description, condition, and source eligible for A.I.D. financing. This approval and determination of commodity eligibility do not represent an approval of the purchase price and do not in any way preclude an A.I.D. refund claim based upon a detailed post-audit of the transaction in accordance with the provisions of A.I.D. Regulation 1 (22 CFR Part 201). A.I.D. expressly reserves such rights as it may have under that Regulation and under such other A.I.D. forms as the supplier may be required to submit by the terms of financing documents and by the terms of Regulation 1.

APPROVED FOR A.I.D._____
Authorized signature

EXPIRATION DATE_____

_____
Date

18. CERTIFICATE FOR PARTIAL SHIPMENT

I hereby certify that the partial shipment for which payment is being requested from A.I.D. funds is being made under the contract by the original validated form AID 11 of which this is a true copy.

Typed or Printed Name and Title | *Signature of Authorized Representative of Supplier* | *Date*

AID 11 (6-90)

OMB No. 0412-0004
Expiration Date: 5/31/93

GENERAL INSTRUCTIONS

Paperwork Reduction Act Notice. Information furnished will be used to verify compliance with legal requirements, as a basis for recourse in the event of noncompliance, and to monitor participation in A.I.D. programs. It will be disclosed outside A.I.D. only as provided by law. Submission of this information has been determined to be necessary to receive payment from A.I.D. funds pursuant to 22 U.S.C. 2381.

Public reporting burden for this collection of information is estimated to average fifteen minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to:

Agency for International Development
Office of Procurement Policy, Planning &
Evaluation, MS/PPE
Washington, D. C. 20523-1435;
and
Office of Management and Budget
Paperwork Reduction Project (0412-0020
Washington, D. C. 20503

Requirement for Payment. Section 201.11(k) of A.I.D. Regulation 1 declares that a commodity purchase transaction is eligible for A.I.D. financing only if A.I.D. provides a determination of the commodity eligibility on the Commodity Approval Application. Section 201.52(a)(8) of the Regulation states that to secure payment a supplier must submit the signed original of this form, countersigned by A.I.D. As appropriate, a reproduced copy of the validated form, certified as provided in the second paragraph following, is required with each subsequent claim for partial shipments made under the original validated form AID-11. Alterations to Block 16 are not acceptable.

Approval by A.I.D. To secure A.I.D. approval, a supplier must submit the signed and properly executed original and one copy of the form, addressed to the Agency for International Development, Office of Procurement, Washington, D. C. 20523-1412. A.I.D. will indicate its approval in Block 18 of the form if the form is properly executed and if A.I.D. has no objection to financing the described commodity. If A.I.D. refuses approval, the Agency will return the form to the supplier with an explanation for refusal. In either case, an identification number will be assigned by A.I.D. in the upper right-hand corner of the form. Any follow-up correspondence between the supplier and A.I.D. should refer to this number.

Partial Shipments. In the event a supplier expects to make more than one shipment under a single contract, letter of credit, or collection document, it may either submit a separate form AID-11 covering each shipment, or submit a single form AID-11 covering the entire contract. In the latter case, the original AID-approved form will be presented to the paying bank with the supplier's first request for payment and a reproduced copy of the approved form, properly certified in Block 18, will be presented with each request for payment for subsequent partial shipments. See detailed instructions for Block 8.

Duration of A.I.D. Approval. A.I.D. approval remains valid for 6 months as evidenced by the expiration date entered by A.I.D. in Block 17. If the letter of credit is valid for a longer period, upon request from the supplier and submission of a copy of the letter of credit, A.I.D. will provide an approved expiration date corresponding to the expiration date of the letter of credit. If the A.I.D. approval expires prior to delivery, the supplier must reapply for approval, making reference to the transaction number assigned by A.I.D.

Timing of Submission. Under letter of credit financing the application should be submitted subsequent to receiving confirmation or advice of credit, but prior to shipment. The form may, however, be submitted prior to receipt of such credit provided that an original or true copy of the purchase contract accompanies the application. Under any other method of financing, the application will be submitted following receipt of instructions that the transaction is to be A.I.D.-financed and must be accompanied by an original or true copy of the contract with the importer. The form should not be submitted prior to the time supplier is able to furnish all required information in Blocks 12 through 15.

Language. Every commodity description which appears on the form must be stated in English. If a supplier furnishes as an attachment to this form a contract in a language other than English, an English translation of the commodity description must also be furnish.

Completeness. All numbered Blocks MUST be fully and appropriately completed. If the application contains incomplete blocks, it will NOT be processed but will be returned for completion.

Obtaining Forms. Forms may be obtained in limited quantities from banks holding A.I.D. letters of commitment, field offices of the Department of Commerce, the A.I.D. office in the supplier's country, or the Resources Management Division , Agency for International Development, Washington, D. C. 20523-1410. A supplier may reproduce the form provided the reproduction is identical with the original copy in every respect, including size, color, and format. A supplier may overprint its name and address in Block 5.

INSTRUCTIONS RELATING TO SPECIFIC ITEMS

BLOCK 1: Enter the letter of commitment number. If not available, enter the loan or grant agreement number. A.I.D. cannot act on an application unless one of these numbers is provided.

BLOCK 2: Indicate the method of financing. If by letter of credit, enter the letter of credit number assigned by the U.S. bank, the date the bank issued, advised, or confirmed the letter of credit, and the name and address of the bank concerned. If the application is submitted prior to receipt of this information, enter the words "Firm contract" and attach a copy of the contract.

If the transaction is not to be financed by letter of credit, enter the applicable payment terms (e.g., sight draft collection, open account) and attach a copy of the contract.

BLOCK 3: The importer should provide the supplier with this information. Generally the import license number appears on the letter of credit. If the information is not known or is not available at the time of submission of the application, enter "Unknown." (In some cases it may be necessary for A.I.D. to require this information before approving the application.)

Enter "N/A" (not applicable) if the importer has not been required by its government to secure an import license.

BLOCK 4: Check the appropriate box to indicate the supplier's relationship to a country or area in the authorized source code. This information relates to certification 4 in block 16. If "Other" is checked, furnish explanation of relationship in block 15.

BLOCK 5: Enter name and address. Please center the information in order to permit A.I.D. to use a window envelope in returning the form.

BLOCK 7: Enter the total purchase price, i.e., the total remuneration (in whatever currency and whether to be paid directly to the supplier or in whole or in part to a designee of the supplier) to be received under the contract. Enter contract date or date pro forma invoice was accepted.

AID 11 (6-90)

OMB No. 0412-0004
Expiration Date: 5/31/93

BLOCK 8: (a) Check the appropriate box to indicate whether the supplier expects to make partial shipments. If "yes" and a separate application form will be submitted for each partial shipment, enter the value of the shipment to which this application relates if only one application form will be submitted to cover all partial shipments, omit the dollar value.

(b) Enter the proposed loading port. If only the range of ports is known, enter the range of ports; e.g., North Atlantic, South Atlantic, Gulf, Pacific, Great Lakes. If expected that partial shipments will be made, but only one application form is to be submitted, entries under (b) and (c) will relate to the first shipment only.

(c) Enter the proposed destination port.

(d) Enter the month in which it is expected shipment will be made. In the case of partial shipments, indicate the estimated first and last months of shipments: e.g., April-September.

BLOCKS 9 and 10: Enter the U.S. Department of Commerce Schedule B 10-digit code in block 9 and describe the commodity in block 10, giving size, quantity, and a clear word description of the commodity, including any special formula or other distinguishing characteristics, such as substandard quality (e.g., reject, imperfect, second) which will help to identify it.

If the contract or letter of credit identifies the commodity by other than Schedule B code (e.g., importing country tariff classification), this identification should be furnished as part of the commodity description.

If the commodity description varies significantly within the same Schedule B Code, separate entries must be furnished for each commodity.

BLOCK 11: Enter the unit and unit price for the commodity on an FAS or FOB basis for the loading port specified in block 8.(b). For other delivery terms, enter a constructive price FAS or FOB vessel; i.e., subtract from a C&F or CIF price estimated ocean freight and marine insurance, or add to an inland price (e.g., ex plant, FOB rail cars (named point)) the estimated inland freight and accessorial costs necessary to place the commodity in the custody of the ocean carrier.

If the supplier is unable to compute a unit price FAS or FOB vessel, the unit price of the commodity may be shown on the basis of the inland price with estimated inland freight cost, if available, footnoted in an explanatory entry in block 15.

SPECIAL INSTRUCTIONS--MULTIPLE ITEMS: If the shipment (or contract) is made up of commodities bearing differing Schedule B codes, or if the commodity description varies significantly within the same Schedule B code, separate entries must be furnished for each code or description. When there are six or more items to be listed in blocks 9 through 11, a signed and dated accepted contract, order, invoice, or other separate listing of the information may be attached to the original and copy of the form AID 11, provided the full 10-digit Schedule B code, complete and accurate description of the commodity, and FAS or FOB vessel unit price are shown for each. If the information required by Clocks 12 through 14 is not common to all commodities listed, appropriate information related to each such commodity is also required to be shown either on the attachment or in the blocks 12 through 14 and related to the appropriate line of the attachment. If an attachment is used in lieu of entry of the information on form AID-11, complete blocks 9-11 inclusive, and 12-14 inclusive (when applicable) by entering the words "See attachment.

SPECIAL INSTRUCTIONS--BLOCKS 12 through 14: If more than one commodity is listed in block 9, provide information required by blocks 12 through 14 on separate lines in those blocks, identified to the corresponding line on which the commodity is listed in block 9. For example, information concerning a commodity listed on line (c) in block 9 would be identified as line (c) in block 12 through 14. When only one form AID-11 is submitted, information in these blocks should be descriptive of the total contract. If a separate form AID-11 is submitted for each shipment under the contract, the information in these blocks should cover only that single shipment.

BLOCK 12: Enter check mark in the appropriate box to indicate the condition of the commodity. If the commodity is other than new and unused, describe the condition in the space below or in block 15. For this purpose, any commodity declared surplus by the U. S. Government agency and any commodity which has been rebuilt or reconditioned or contains components which have been rebuilt or reconditioned are not considered as "unused."

BLOCK 13: See § 201.11(b)(4) of A.I.D Regulation 1 for countries and areas included in geographic code numbers.

(a) Enter in block 13(a) the authorized geographic source area stated in the letter of credit or A.I.D. direct letter of commitment.

(b) Enter in block 13(b) the country from which the commodity will be shipped to the importer. If the commodity will be shipped from a free port or bonded warehouse, indicate this fact in block 16 and give location.

(c) Enter in block 13(c) the country in which the commodity has been or will be mined, grown, or produced through manufacturing, processing or assembly.

BLOCK 14: (a) Enter in block 14(a) "Yes" if the commodity includes components imported into the country of production from a country not included in the authorized geographic source area indicated in block 13(a). If such components are not included, enter "no."

(b) If block 14(a) "Yes," identify in block 14b each country from which components were imported into the country of production.

(c) In block 14(c), enter the total cost, within each unit of the finished product, attributable to components imported from each country indicated in blocks 14(b). If the suppliers unable to furnish the information required by block 14(b) and 14(c) at the time of submission of the application and no componentry percentage other than the 50 percent set forth in § 201.11(b)(2)(ii)(b) of A.I.D. Regulation 1 has been authorized for the commodity, A.I.D. will accept a statement in these blocks or in block 15 that (1) the commodity contains no components from other than "free world" countries, and (2) the total cost of components imported into the country of production from other than countries included in the authorized geographic source code (or the cooperating country itself whenever Code 941 is authorized) per unit of finished commodity is no more than 50 percent of the lowest selling price per unit at which the supplier makes the commodity available for export. If A.I.D. has authorized a percentage of such components other than 50 percent, the supplier should state such other higher or lower modification of the percentage rule, with a citation to the pertinent modification, and the actual percentage of such components in the product, or an affirmation that the percentage of such components is not in excess of the percentage allowed by A.I.D. The supplier should thereafter be prepared to demonstrate the accuracy of these statements upon the request of A.I.D.

BLOCK 15: This block may be used to furnish explanation or additional information in connection with any entries on the form. Identify block (and line, as appropriate) to which entry relates.

BLOCK 16: The supplier, or its authorized representative, must manually sign this certification, showing name, title and date signed.

BLOCK 17: For A.I.D. use. Note that A.I.D. approval is not valid for deliveries on and after the expiration date shown in this block.

BLOCK 18: If reproduced copies of this original form are presented with the supplier's request for payment (see fifth paragraph of General Instructions), the supplier or its authorized representative must manually sign this certification in block 18 of the reproduced form, showing name, title and the date signed.

PART 202—OVERSEAS SHIPMENTS OF SUPPLIES BY VOLUNTARY NON-PROFIT RELIEF AGENCIES

Sec.

202.1 Definition of terms.
202.2 Shipments eligible for reimbursement of freight charges.
202.3 Freight reimbursement limitations.
202.4 Certificates.
202.5 Approval of programs, projects and services.