terminated. However, if USAID deter-
mines in the case of partial termi-
nation that the reduced or modified
portion of the award will not accom-
plish the purposes for which the grant
was made, it may terminate the award
in its entirety under paragraph (a)(1),
(a)(2) or (a)(3) of this section.
(b) If costs are allowed under an
award, the responsibilities of the re-
cipient referred to in paragraph
226.71(a), including those for property
management as applicable, shall be
considered in the termination of the
award, and provision shall be made for
continuing responsibilities of the re-
cipient after termination, as appro-
priate.

§ 226.62 Enforcement.
(a) Remedies for noncompliance. If a re-
cipient materially fails to comply with
the terms and conditions of an award,
whether stated in a Federal statute,
regulation, assurance, application, or
notice of award, USAID may, in addi-
tion to imposing any of the special con-
ditions outlined in § 226.14, take one or
more of the following actions, as appro-
priate in the circumstances.
(1) Temporarily withhold cash pay-
ments pending correction of the defi-
cency by the recipient or more severe
enforcement action by USAID.
(2) Disallow (that is, deny both use of
funds and any applicable matching
credit for) all or part of the cost of the
activity or action not in compliance.
(3) Wholly or partly suspend or ter-
minate the current award.
(4) Withhold further awards for the
project or program.
(5) Take other remedies that may be
legally available.
(b) Hearings and appeals. The recipi-
ent may appeal, in accordance with
Subpart F, any action taken by USAID
on which a dispute exists and a deci-
sion by the Agreement Officer has been
obtained. There is no right to a hearing
on such an appeal.
(c) Effects of suspension and termi-
nation. Costs of a recipient resulting
from obligations incurred by the re-
cipient during a suspension or after
termination of an award are not allow-
able unless USAID expressly authorizes
them in the notice of suspension or ter-
mination or subsequently. Other recipi-
ent costs during suspension or after
termination which are necessary and
not reasonably avoidable are allowable
if:
(1) The costs result from obligations
which were properly incurred by the re-
cipient before the effective date of sus-
pension or termination, are not in antici-
pation of it, and in the case of a ter-
mination, are noncancellable, and
(2) The costs would be allowable if
the award were not suspended or ex-
pired normally at the end of the fund-
ing period in which the termination
takes effect.
(d) Relationship to debarment and sus-
pension. The enforcement remedies
identified in this section, including
suspension and termination, do not
preclude a recipient from being subject
to debarment and suspension under
E.O.s 12549 and 12689 and USAID’s im-
plementing regulations (see 22 CFR
part 208).

Subpart D—After-the-Award
Requirements

§ 226.70 Purpose.
Sections 226.71 through 226.73 contain
closeout procedures and other proce-
dures for subsequent disallowances and
adjustments.

§ 226.71 Closeout procedures.
(a) Recipients shall submit, within 90
calendar days after the date of comple-
tion of the award, all financial, per-
formance, and other reports as required
by the terms and conditions of the
award. USAID may approve extensions
when requested by the recipient.
(b) Unless USAID authorizes an ex-
tension, a recipient shall liquidate all
obligations incurred under the award
not later than 90 calendar days after
the funding period or the date of com-
pletion as specified in the terms and
conditions of the award or in agency
implementing instructions.
(c) USAID will make prompt pay-
ments to a recipient for allowable re-
imbursable costs under the award being
closed out.
(d) The recipient shall promptly re-
fund any balances of unobligated cash
that USAID has advanced or paid and
that is not authorized to be retained by
the recipient for use in other projects.
§ 226.72

OMB Circular A–129 governs unreturned amounts that become delinquent debts.

(e) When authorized by the terms and conditions of the award, USAID shall make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(f) The recipient shall account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with §§ 226.31 through 226.37.

(g) In the event a final audit has not been performed prior to the closeout of an award, USAID retains the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

§ 226.72 Subsequent adjustments and continuing responsibilities.

(a) The closeout of an award does not affect any of the following.

(1) The right of USAID to disallow costs and recover funds on the basis of a later audit or other review.

(2) The obligation of the recipient to return any funds due as a result of later refunds, corrections, or other transactions.

(3) Audit requirements in §§ 226.26.

(4) Property management requirements in §§ 226.31 through 226.37.

(5) Records retention as required in § 226.53.

(b) After closeout of an award, a relationship created under an award may be modified or ended in whole or in part with the consent of USAID and the recipient, provided the responsibilities of the recipient referred to in paragraph 226.73(a), including those for property management as applicable, are considered and provisions made for continuing responsibilities of the recipient, as appropriate.

§ 226.73 Collection of amounts due.

(a) Any funds paid to a recipient in excess of the amount to which the recipient is finally determined to be entitled under the terms and conditions of the award constitute a debt to the Federal Government. USAID reserves the right to require refund by the recipient of any amount which USAID determines to have been expended for purposes not in accordance with the terms and condition of the award, including but not limited to costs which are not allowable in accordance with the applicable Federal cost principles or other terms and conditions of the award. If not paid within a reasonable period after the demand for payment, USAID may reduce the debt by:

(1) Making an administrative offset against other requests for reimbursements.

(2) Withholding advance payments otherwise due to the recipient, or

(3) Taking other action permitted by law.

(b) Except as otherwise provided by law, USAID will charge interest on an overdue debt in accordance with 4 CFR Chapter II, "Federal Claims Collection Standards."

Subpart E—Additional Provisions For Awards to Commercial Organizations

§ 226.80 Scope of subpart.

This subpart contains additional provisions that apply to awards to commercial organizations. These provisions supplement and make exceptions for awards to commercial organizations from other provisions of this part.

§ 226.81 Prohibition against profit.

No funds shall be paid as profit to any recipient that is a commercial organization. Profit is any amount in excess of allowable direct and indirect costs.

§ 226.82 Program income.

The additional costs alternative described in § 226.24(b)(1) may not be applied to program income earned by a commercial organization.

Subpart F—Miscellaneous

§ 226.90 Disputes.

(a) Any dispute under or relating to a grant or agreement shall be decided by the USAID Agreement Officer. The Agreement Officer shall furnish the recipient a written copy of the decision.