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§ 202.8 Refund by suppliers and/or agencies.

(a) *By suppliers.* Any supplier of freight to whom freight charges have been financed by AID will promptly refund to AID upon demand the entire amount, or any lesser amount specified, of such freight charges determined by AID to be in excess of the prevailing rate at time of shipment, if any, or the rate paid the supplier for similar services by other customers similarly situated.

(b) *By agencies.* Any agency to which freight charges have been paid or reimbursed under this Regulation will promptly refund to AID upon demand the entire amount, or any lesser amount specified, of inland transportation and/or related shipping costs, (1) whenever AID determines that the reimbursements were improper as being in violation of the provisions of the Foreign Assistance Act of 1961, and relevant appropriation acts, or any rules, regulations, or procedures of AID promulgated under any of these acts, or (2) whenever it is determined by the agency or AID that any of the supplies for which reimbursement was made have not been accorded duty-free status by the recipient country.

§ 202.9 Waiver authority.

The Administrator may waive, withdraw, or amend from time to time any or all of the provisions of this part.

§ 202.10 Participation by faith-based organizations.

The procedures established under this part shall be administered in compliance with the standards set forth in part 205, Participation by Religious Organizations in USAID Programs, of this chapter.

[69 FR 61723, Oct. 20, 2004]

PART 203—REGISTRATION OF PRIVATE VOLUNTARY ORGANIZATIONS (PVOs)

Sec.

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

SOURCE: 70 FR 25467, May 13, 2005, unless otherwise noted.

§ 203.1 Purpose.

(a) USAID registers PVOs to:

(1) Meet statutory and regulatory requirements that a U.S. PVO be registered with USAID as a condition for USAID funding.

(2) Provide USAID with information for computing the amount of USAID funding made available to PVOs.

(b) It is not the purpose of registration to allow or enable registered PVOs to make any representation to the public concerning the meaning of being registered with USAID. Promotional materials or advertisements suggesting otherwise will be grounds for removal from the USAID PVO Registry.

(c) Registration does not bring an organization within the Ambassador's authority and responsibility for the security of U.S. Government operations and personnel abroad.

§ 203.2 Definitions.

As used in this part:

(a) *Cooperative Development Organization (CDO)* means an organization designated by USAID as a voluntary, independent business enterprise formed to meet specific needs of its members through a common venture.

(b) *Foreign Assistance Act (FAA)* means the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151, *et seq.*

(c) *General public* means citizens and nongovernmental organizations (NGOs). The general public does not include government agencies in the United States or abroad, or public international organizations such as the

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United Nations and the World Health Organization.

(d) *Headquarters* means the principal executive office where legal, accounting, and administrative information may be accessed in the daily course of conducting business.

(e) *International Private Voluntary Organization (IPVO)* means an entity that:

(1) Is non-U.S. based in that it is organized under the laws of the country in which it is domiciled;

(2) Is a private nongovernmental organization (NGO) that solicits and receives cash contributions from the general public;

(3) Is a charitable organization in that it is nonprofit and tax exempt under the laws of its country of domicile and operation, and is not a university, college, accredited degree-granting institution of education, private foundation, hospital, organization engaged exclusively in research or scientific activities, church, synagogue, mosque or other similar entities organized primarily for religious purposes; and

(4) Conducts, or anticipates conducting, program activities in one or more countries other than its country of origin that are consistent with the general purposes of the Foreign Assistance Act and/or Public Law 480.

(5) Is not recognized as a Public International Organization according to USAID's Automated Directives System (ADS) 308.3.

(f) *Local Private Voluntary Organization (LPVO)* means a non-U.S. based PVO that meets the definition of an International Private Voluntary Organization, except that it operates only in the same foreign country in which it is organized. LPVOs are not required to register with USAID/Washington but USAID Missions may require some other eligibility method when making awards.

(g) *Non-U.S. Private Voluntary Organization (Non-U.S. PVO)* means an entity that meets the definition of a U.S. PVO, but is not headquartered in the United States. Non-U.S. PVOs include both Local Private Voluntary Organizations and International Private Voluntary Organizations.

(h) *Nongovernmental Organization (NGO)* means any nongovernmental organization or entity, whether nonprofit or profit-making.

(i) *Nonprofit organization* means any corporation, trust, association, cooperative or other organization that is operated primarily for service, charitable, scientific, educational or other similar purposes; is not organized for profit; and uses its net proceeds to maintain, improve, and/or expands its operations.

(j) *Private Voluntary Organization (PVO)* See U.S. Private Voluntary Organization, International Private Voluntary Organization, and Local Private Voluntary Organization.

(k) *Public International Organization (PIO)* means a non-U.S. based organization (*i.e.*, composed principally of governments) in which the U.S. participates. (See USAID's Automated Directives System (ADS) 308.3).

(l) *Public Law 480* means the Agricultural Trade Development and Assistance Act of 1954, as amended, 7 U.S.C. 1691, *et seq.*

(m) *Solicits* means to undertake a substantial effort to obtain donations.

(n) *Supporting services* means the total of general and administration expenses plus fundraising expenses.

(o) *USAID* means the U.S. Agency for International Development.

(p) *U.S. Private Voluntary Organization (U.S. PVO)* means an entity that:

(1) Is organized under the laws of the United States and headquartered in the United States;

(2) Is a nongovernmental organization (NGO) that solicits and receives cash contributions from the U.S. general public;

(3) Is a charitable organization in that it is nonprofit and exempt from Federal income taxes under section 501(c)(3) of the Internal Revenue Code, and is not a university, college, accredited degree-granting institution of education, private foundation, hospital, organization established by a major political party in the United States, organization established, funded and audited by the U.S. Congress, organization engaged exclusively in research or scientific activities, church, synagogue, mosque or other similar entity

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organized primarily for religious purposes; and

(4) Conducts, or anticipates conducting, overseas program activities that are consistent with the general purposes of the Foreign Assistance Act and/or Public Law 480.

§ 203.3 U.S. PVO conditions of registration.

There are eight Conditions of Registration for U.S. organizations. The first four Conditions relate to whether an organization meets the definition of a U.S. PVO, as set forth in § 203.2 (p), while the last four Conditions establish standards by which the U.S. PVO is evaluated. An applicant must be registered with USAID as a U.S. PVO if USAID finds that the applicant has satisfied all of the following Conditions:

(a) *Condition No. 1 (U.S. based)*. Is U.S. based in that it:

(1) Is organized under the laws of the United States; and

(2) Has its headquarters in the United States.

(b) *Condition No. 2 (Private)*. Is a non-governmental organization (NGO) and solicits and receives cash contributions from the U.S. general public.

(c) *Condition No. 3 (Voluntary)*. Is a charitable organization in that it:

(1) Is nonprofit and exempt from Federal income taxes under Section 501(C)(3) of the Internal Revenue Code; and

(2) Is not a university, college, accredited degree-granting institution of education, private foundation, hospital, organization established by a major political party in the United States, organization established, funded and audited by the U.S. Congress, organization engaged exclusively in research or scientific activities, church, synagogue, mosque or other similar entity organized primarily for religious purposes.

(d) *Condition No. 4 (Overseas Program Activities)*. Conducts, or anticipates conducting, overseas program activities that are consistent with the general purposes of the Foreign Assistance Act and/or Public Law 480.

(e) *Condition No. 5 (Board of Directors)*. Has a governing body:

(1) That meets at least annually;

(2) Whose members do not receive any form of income for serving on the board; and

(3) Whose majority is not composed of the PVO's officers or staff members.

(f) *Condition No. 6 (Financial Viability)*. That it:

(1) Accounts for its funds in accordance with generally accepted accounting principles (GAAP);

(2) Has a sound financial position;

(3) Provides its financial statements to the public upon request; and

(4) Has been incorporated for not less than 18 months.

(g) *Condition No. 7 (Program Activities vs. Supporting Services)*. That it:

(1) Expends and distributes its funds in accordance with the annual report of program activities;

(2) Does not expend more than 40 percent of total expenses on supporting services.

(3) In order to maintain its registration, conducts international program activities within the last three years. For example, if a U.S. PVO did not have any international activities for 2004, the current year, or 2003, but did have activities in 2002, then it would remain registered. However, if it did not have any international activities in 2005, USAID would remove it from the Registry in 2006 because for the previous three years (2003, 2004, 2005), it did not conduct any international activities.

(h) *Condition No. 8 (General Eligibility)*. It is not:

(1) Suspended or debarred by an agency of the U.S. Government;

(2) Designated as a foreign terrorist organization by the Secretary of State, pursuant to Section 219 of the Immigration and Nationality Act, as amended; or

(3) The subject of a decision by the Department of State to the effect that registration or a financial relationship between USAID and the organization is contrary to the national defense, national security, or foreign policy interests of the United States.

§ 203.4 U.S. PVO initial documentation requirements.

(a) So that USAID can determine whether an applicant meets the Conditions of Registration, an application