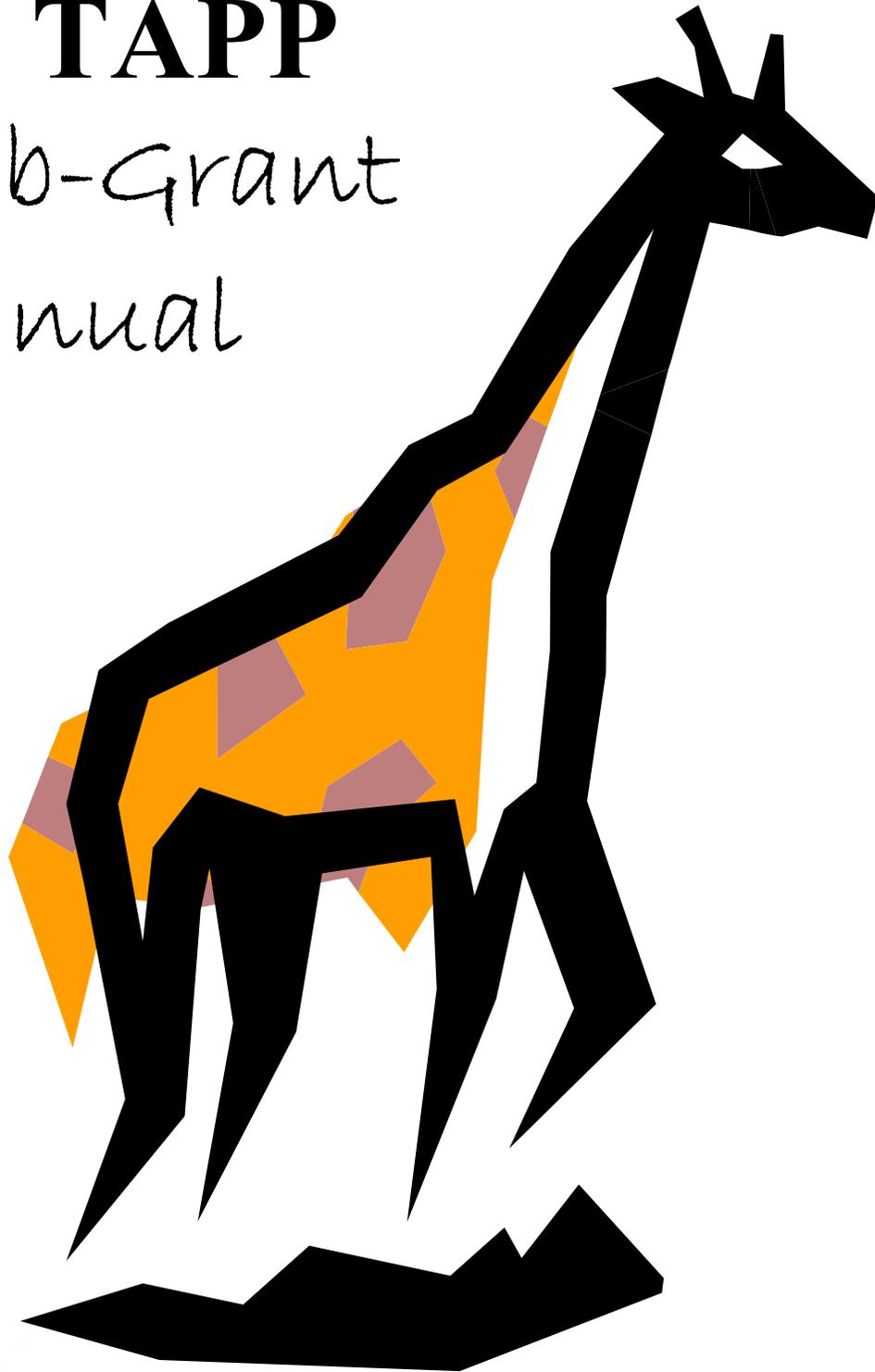


TAPP

Sub-Grant
Manual



TAPP Sub-grant Manual

Table of Contents:

	Page Number
Acknowledgment	i
Introduction and Background to TAPP	1
The Purpose of the Sub Grant & What We What to Support	2
What will not be funded under a Sub Grant	3
Definitions	4
Who can apply for a Sub Grant under TAPP and How do we solicit?	5
How to make an application and Basic conditions	6
Once we receive your application, Selecting and review of applications	7
Some final points to consider	8
Match funds	9
If your proposal is short-listed and Pre award assessment	10
Sub Grant agreement	11
Sub grant disbursement and reporting procedures	12
Management and Monitoring of the Sub grant	13
Audit	13
Technical assistance and training	14
Sub grant close-out	14
Governing US Federal regulations	14
Appendix I	15
Appendix II	16
Appendix III a	22
Appendix III b	25
Appendix IV	38
Appendix V	45
Appendix VI	46

Acknowledgements:

This manual is an improved version of the Tanzania Advocacy Partnership program (TAPP) Sub Grant Manual which was developed in May 2003. Therefore this manual incorporates following which were the basis for reviewing the manual: -

1. What worked well from the earlier version
2. Comments and feedback from partners on practical Sub Grant procedures described in the earlier version.
3. Lessons learned from other Pact field offices in Sub Grant management
4. New USAID policies and regulations introduced for management of US Government funds etc.

The above inputs came from various people associated with TAPP and Sub grant management to whom we would like to acknowledge and thank. These includes: -

1. Grants Managers and Finance Officers from other Pact country field offices who attended the Sub Grant Management Workshop in Monkey Valley Cape Town – For their valued experiences shared during meeting.
2. TAPP partners – For their honest feedback on the sub granting procedures.
3. Pact HQ in Washington (Georgia and Andrea) – For reviewing and technical support.

Without the participation of colleague TAPP members, Jacqueline Matoro-Kiria, Nora Pendaeli-Mhina, Christine Mwanukuzi-Kwayu, Dan Craun-Selka, Harold Levira, Martha Mwanjoka and Maxwell Kadewere, their openness, ideas and dialogue, this manual would have not have been possible.

Kenneth John Pendaeli
Grants and Finance Officer

Tanzania Advocacy Partnership Program (TAPP) Sub-grant Program

Introduction:

This manual has been developed to provide Tanzania Advocacy Partnership Program (TAPP) partners with information about the Sub Granting program of the Tanzania Advocacy Partnership Program (TAPP). The manual describes the program and provides minimum requirements for making an application for a sub grant. The manual is available in PDF format on Pact Tanzania's website at www.pacttz.org

Before any eligible applicant submits an application for a sub-grant from Pact Tanzania, we recommend that sufficient time should be taken to read this manual carefully. This manual has been designed to facilitate guidance to the applicant on specific key aspects of the TAPP Sub-grant Program.

In this manual, you will find information about the purpose of the sub-grants, such as who can apply for a sub-grant (eligibility); the kinds of things Pact will and or will not give sub-grants for, and what happens after we receive your application.

Pact Tanzania is seeking to fund the most effective and comprehensive proposals that also contribute to the TAPP program objectives. This manual will help clarify what sorts of activities and initiatives and assist applicants in developing good advocacy proposals.

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Background to TAPP

Pact is an international NGO, headquartered in Washington with programs in 14 countries in Africa, Asia and Latin America. Pact Tanzania is working under an agreement with United States Agency for International Development (USAID) to implement the Tanzania Advocacy Partnership Program (TAPP). The goal of TAPP is

Pact's mission is to help build strong communities globally that provide people with an opportunity to earn a dignified living, raise healthy families, and participate in democratic life.

Pact achieves this by strengthening the capacity of grassroots organizations, coalitions and networks, and by forging linkages among government, business and the citizen sectors to achieve social, economic and environmental justice.

to strengthen the advocacy capacity of civil society organizations in Tanzania through training and technical assistance in general organizational development topics and advocacy. This will enable NGOs to lead and participate in people-centered development in partnership with the government. Pact will primarily be partnering with civil society organizations engaged in issues related to health and HIV/AIDS, natural resource management, land use and human rights.

The Pact program, under a cooperative agreement with USAID/Tanzania, officially began on November 7, 2001 and is currently scheduled to terminate on September 30, 2004 unless extended by mutual agreement between USAID and Pact.

The purpose of the Sub – Grants

The purpose of the sub-grants is to support advocacy initiatives of selected Tanzanian CSOs (whom Pact Tanzania refers to as “Partners”). The sub-grants will serve as additional and complementary resources for the CSOs participating in the TAPP capacity building program. Participation in the TAPP capacity building program is defined as active participation in a comprehensive organizational capacity assessment (OCA) as well as the follow up organizational development interventions conducted by Pact and its partners. The sub-grants may be for a single activity/event or for advocacy activities and initiatives lasting more than one month. The activities supported by the sub-grants must be part of the organization’s overall advocacy strategy. Pact sub-grants are *not* to be used as CSO core funding mechanisms or for major equipment purchases such as vehicles.

The sub-grants are just one of the tools Pact uses to strengthen the overall skills of advocacy CSOs. We view the sub-grants and the application process as a capacity building activity leading to improving skills in fund raising, sustainability, financial management, donor relations and ultimately advocacy. Pact’s program does not center on the sub-grants and these resources should not be considered as the primary or sole source of funding a CSO’s operations.

While Pact does view the sub-grant process as a learning experience, we also strive to fund interesting and effective advocacy initiatives/projects. Pact will provide technical assistance in project development and management to encourage CSOs to develop and submit proposals that contribute to their overall plans

What we want to support

The range of acceptable activities may include, but is not limited to:

1. Conducting research and analysis to define issues and to clarify the institutional environment
2. Conducting surveys and holding discussions with base membership

3. Collecting, transforming information and producing various materials in print, audio and video formats
4. Drafting policy critiques and proposals
5. Conducting a lobbying/advocacy campaign at specific officials for a single purpose (i.e. a particular piece of legislation)
6. Developing links with other organizations, networking and coalition building
7. Engaging in discussions and negotiations with decision makers
8. Organizing training, debate, press monitoring and other activities conducive to the development of communications capacity and to public recognition as a group
9. Working toward greater access to, circulation of and use of information at the regional level
10. Promoting dialogue and networking between CSOs

In addition, activities that contribute to building an enabling environment for civil society and an improved environment for the participation of citizens in public life are eligible for grants. Those include but are not limited to:

1. Promoting laws, fiscal policies, government and donor policies and programs that foster the development of an accountable, knowledgeable and strong civil society
2. Otherwise promoting the development of civil society as a legitimate and credible force in Tanzanian Society
3. Engaging in activities that promote greater openness, transparency, information exchange and good practice from state and donor institutions and agencies
4. Activities that promote the development of knowledge and information amongst citizens and organizations, directly or through improvements in journalism, the press and media organizations.

The number of grants that an organization can receive at any one time will depend upon its size, experience and administrative capacity. In most cases, grantees are excluded from receiving more than one grant at a time. However, additional grants would be possible based upon the relative success and management of the initial grant.

What will not be funded under a sub-grant

Examples of what Pact Tanzania will not provide sub-grants for:

1. Series of workshops and participant per diem/DSA without clear reasoning and follow-up activities (a series of workshops is not an acceptable project)
2. Purchase of major equipment that is not solely for the exclusive use of the activity

3. Service delivery programs which do not have advocacy as a primary aim
4. Purchase of vehicles
5. Programs in which the sole purpose is to promote/advertise your organization
6. Core funding of the organisation's strategic plan
7. Multi-year programs

In addition to the above, Pact Tanzania will not support certain categories of costs that may be considered by the applicant. Such costs include: -

1. Administrative fees based as a percentage without proof of an audited indirect cost rate
2. Personnel costs
3. Renting of cars¹
4. International Travel
5. Pharmaceuticals and other commodities per USAID regulations under 22CFR 226

Definitions – When we use these words, this is what we mean

Advocacy for the purposes of the sub-grants, advocacy is a systematic, democratic, and organized effort by a civil society organization to “speak in favour of an issue or pleading in support of a cause”. It includes involving citizens to work with government entities in the initiation of policies, laws, and/or public sector practices, etc.

Cooperative Agreement the legal document through which Pact administers the TAPP with funding from the donor, USAID.

Sub-grant TAPP partners receiving funds from the US government through Pact in order to contribute to the overall goals of the TAPP program and USAID. A sub-grant is an instrument of assistance; it assists the sub-grantee in delivering services and building internal capacity.

Sub-grantee These are CSOs that receive sub-grants under the sub-agreements from Pact.

Solicitation A formal request for applications and proposal. Pact will send out a notice that it will be funding a certain number of sub-grants for a specific amount of money under as specific topic area. The solicitation notice will define and outline the terms and conditions that the applicants must follow.

¹ We consider car rental to be transport services provided by specialized transport business operators normally for a longer period and great distances. However, car hiring otherwise is accepted e.g. hiring a taxi from bus stand to the hotel.

Proposal the formal requests to receive sub-grant funding. The proposal must follow Pact guidelines.

Who can apply for a Sub-grant under TAPP?

Organizations which are active and committed participants in Pact Tanzania's TAPP are eligible for the sub-grants program. Pact Tanzania will select partners for the TAPP² using the following criteria.

1. The organization should be a legal not-for-profit entity with at least 3 staff.
2. The CSO has an active membership or constituency, with outreach to that membership for consultation on issues of concern
3. The CSO's goals and mission are in line with and contribute to the strategic objectives of USAID in the areas of governance, HIV/AIDs, health, and natural resource management and/or deals in advocacy regarding gender and/or human rights issues.
4. The organization should have a documented history of delivering services to constituency for at least 2 years and conducts development activities in its related sectors.
5. The CSO is currently engaged in advocacy activities or has taken steps toward developing advocacy campaigns and initiatives;
6. The organization should have a need for capacity building.
7. During the first year, the CSOs should be working within the Pact Tanzania geographical areas, namely, Coast, Dodoma, Kilimanjaro, Iringa, Tabora, Shinyanga, and Arusha regions.
8. The organization is willing to commit to full participation in the TAPP, which would include open participation in baseline and follow-up assessments; attendance and participation in training programs and compliance with relevant USAID regulations related to funding and grants management.

How do we solicit?

TAPP will be issuing solicitations regularly in a particular accounting year. Each solicitation will have 45-day processing time (i.e. from receipt of applications, reviews and Pact Tanzania's selection, USAID approval, pre-award assessment and lastly awarding).

This manual and the solicitations will be posted on the Pact website at www.pacttz.org. Unlike the earlier version, the application process is designed to ensure that only basic and key information relevant to the proposed project is provided.

² These eligibility criteria will apply when Pact Tanzania selects partners to TAPP.

How to make an application

A complete proposal, in a format presented on Appendix II, including relevant attachments will be sent to Pact Tanzania in hard copies. Electronically submitted proposals are not preferred but may be accepted, especially for partners applying from up country. However, a hard copy of the application which was sent electronically must also be sent by post to Pact Tanzania. All proposals applying for Sub-grant should be addressed to the Country Director.

Deadlines for submission in each cycle will be stated in the solicitation notice.

Applications received after the deadline will not be accepted.

Basic conditions

1. Pact Tanzania's TAPP Sub-grant program falls under the United States Government's Small Awards category of the Non – Competitive Grant Applications. Therefore TAPP Sub-grant funds, by regulation, can be awarded to support proposals with US dollar value of not more than US\$50, 000 and having duration of not more than one (1) year. All proposals submitted to TAPP for funding must conform to this rule. The exact dollar limit, less than \$50,000, and the suggested duration of the activity will be posted in each solicitation.
Proposals exceeding the maximum limits will not be considered.
2. If a proposal contains activities, which are of a training nature, we will request that the applicant submit along with the proposal (can be separately) a training plan. Please note that this is not a training timetable.

A training plan should inform the review panel: -

- A profile of the target group
 - Objectives of the training
 - An outline of major topics to be covered in the respective training.
3. If the project is to produce an Information and Communication product (i.e. manuals, film, video, etc.) the applicant must submit a production schedule, clearly stating the benchmarks and timing of the production.
 4. If your proposal indicates a match fund, which has or will be provided by other donor(s), the review panel will like to know the source. Please provide complete contact address and copies of any documentation (if available) that signifies commitment.

Once we receive your application

All applications will undergo a review process with the final decision made by the USAID. Within Pact Tanzania there will be a review panel made up of the Country Director, the Grants and Finance Officer and three (3) other program staff.

The applications will be reviewed against a set of assessment criteria detailed below. Each applicant will be notified in writing once we have received the application.

Selection and Review of Applications

Organizations, which participate in the OCA, will receive a detailed report on the strengths of the organization and the areas that need further attention. Capacity building activities to capitalize on the strengths and improve the weaknesses will be conducted in response to the assessment results. As part of the capacity building strategy, Pact will accept applications for financial resources from the CSO in order to further along the CSO's advocacy efforts. In order to be considered receiving funds, the CSO must submit in writing an application for proposal in the format and manner outlined in this manual and the solicitations.

The selection and review process in each cycle will take place within 45 days from the respective deadline date. The review panel will sit twice in each cycle. The first meeting will be to determine which applications meet the general qualifications. The second meeting will review proposals which were approved with a "subject to" ranking. All proposals, even those recommended for funding by Pact, is subject to concurrence by USAID Democracy and Governance office.

The following will be the review criteria. These are very important features that your proposal should demonstrate. TAPP's training staff will be reviewing these criteria from the proposal as the criteria will provide information on areas needing improvement with which Pact Tanzania can develop training programs on. Furthermore, the review panel will be able to identify areas with which technical assistance can be recommended and applied to make the application proposal fundable.

1. Project Criteria:

The review panel will seek to ensure that the submitted proposal application is well thought out. The panel will therefore, seek information that will support the following:

- Is the proposal clear, can we understand what they want to do?
- Is the problem statement clear and relevant?
- How closely is the problem aligned to the objectives of TAPP and the Sub-grant
- Is this the best approach to solving the problem? How strong is the rationale for the kind of response being suggested?

- Is the scope of the project appropriate (is it too large or small)?
- Does the applicant demonstrate in-depth knowledge of the problem, area of work and proposed beneficiaries?
- Does the applicant demonstrate in-depth knowledge of other relevant players on similar or related focus area? i.e. do you know what is happening for the focus area?
- Is the project timely, innovative or unique?
- Is the project properly planned and staffed?
- Does the project provide a sound plan to monitor the progress?
- Are the objectives and outcomes SMART? i.e. Specific, Measurable, Relevant and Time bound?

2. Financial Criteria:

The review panel will seek to confirm that the budget for the proposed project is adequate, appropriate and cost effective. At this particular level the review panel will be looking at the proposed budget. Assessment of strength, weaknesses and effectiveness of the internal control system of the applicant will be performed at the Pre-award Assessment level discussed later in the manual.

Therefore, the review panel will review the budget for: -

- Detailed information – Budget for each activity must include details of costs for the activity.
- Reasonability – The costs do not exceed those that would be incurred by an ordinarily prudent person in the conduct of normal business.
- Allocable – That the budget presents costs which are necessary to the project.
- Allowable – That the budget presents costs which are reasonable and allocable, and which conform to limitations set forth to the attached USAID 22 CFR Part 226.
- The budget does not include any cost element which has been disallowed under “What we will not provide Sub-grant for” above.
- A match fund (in cash whether from own sources or other donor’s funds or in-kind) has been clearly indicated and value at least 25% of the total project cost.

Note: Sample budget format is attached (See Appendix I)

Some final points to consider

As you wrap-up your proposal for submission to Pact Tanzania before any of the due dates remember the following:

- ➔ Pact is supporting your organisation and wants you all to succeed and gain resources, but we make the decisions based on exactly what you tell us. Be clear.
- ➔ That we review the proposals together with the ability of your organization to manage it
- ➔ That we review the ideas within your proposal, not just the words used on the proposal document.
- ➔ Facts and figures that support the proposal will assist us to properly review the proposal.
- ➔ You should assume that the reader knows nothing about the problem you are addressing. While you may understand the issue and the problem completely, others may not. Before you submit the proposal, have it read by someone unfamiliar with the problem. If they ask you many questions, then you probably have not explained it well enough.
- ➔ The applicant needs to be realistic about proposal and what it can achieve
- ➔ Prepare your budget based on actual costs

Match Funds

A match of at least 25% of total proposed project costs is a criterion for receiving sub-grant under TAPP. Match funds can be

1. Other donor's contribution (non US Government) to the proposed project
2. Applicant's own resource
3. Any in kind contribution e.g. office space, time, use of equipments etc whether contributed by the applicant or third party.

Provided that the contributions:

- Are verifiable from the recipient's records
- Are not included as contributions for any other federally-assisted project or program
- Are necessary and reasonable for proper and efficient accomplishment of the proposed project's objectives and
- Are allowable under the applicable cost principle

As part of the pre-award assessment mechanisms for valuating or quantifying in kind match funds must be determined. The applicant must understand and agree how and which instruments to be used in valuation which will be supporting the financial reports each time they indicate expenditure from this source.

If your proposal is short-listed

Applicants will receive notification of the status of their application proposals within 45 days following each cycle's deadline. The review panel can take one of the following actions:

1. Short list the application and prepare a concurrence memo to USAID SO 03 leader for approval. The applicant will receive a notification to this fact.
2. Request re-submission after technical support on the proposal from Pact Tanzania's program staff. The applicant might be requested to either:
 - Provide clarifications on areas the review panel was not clear.
 - Arrange to meet with a specific Pact Tanzania's staff for a one-on-one support on the proposal.
 - Provided with feedback to consider while improving or developing any other proposal.
3. Notify the applicant that the application has not been approved and will not be considered any further under this solicitation because it fails to meet the objectives of TAPP. The Applicant is eligible for resubmission in later solicitation.

Upon acceptance of the application and/or responses, Pact Tanzania will notify the CSO in writing that the proposal has been accepted and negotiations will begin the process of a sub-grant.

Pre-award Assessment

Once the applications have been reviewed and a decision has been made regarding which CSOs to fund, a concurrence memorandum to USAID will be prepared. The final decision to fund any proposal which is being referred to above is USAID's. Applications that USAID has concurred to fund are referred to as "Finalists". However, USAID's concurrence to fund does not mean approval has been given to release funds to the sub grantee.

Once a concurrence memorandum has been signed, a pre-award assessment will be carried out by Pact Grants and Finance officer or its representatives, using the pre-award questionnaire as a model (Appendix III a & b). The pre-award surveys will be conducted in the form of field visits and/or desk reviews. The primary purpose of this assessment is to: -

1. Pinpoint and document any possible deficiencies or weaknesses in the:
 - o Accounting, record keeping and overall financial management system;
 - o Systems of internal controls, procurement, and administering and monitoring sub-grants.

This will assist Pact Tanzania to mitigate risk and therefore reduce vulnerability of Pact's funds.

2. Based on the findings above, assign appropriate funding mechanism for the respective grant. Available options that Pact Tanzania has includes:
 - o Cost Reimbursement: - where a sub grantee incurs expenses on the project and in a specified period of time requests reimbursement.
 - o Fixed Obligation Grant (FOG): - where fixed payments are made to the sub grantee against verified milestones
 - o Advances: - where a sub grantee receives incremental disbursements of a grant in advance and makes a report on expenditure in a specified period of time.

After the field visit and review, a report will be prepared which documents the organizational situation and may include recommendation on changes in the financial management system. One of the intentions of the financial and administrative pre-award assessment is to discover specific areas that may hinder the CSO's ability to implement its sub-grant advocacy initiatives and creates an action plan for corrective interventions. This survey compliments and focuses the financial management assessment conducted under the TAPP OCA. If the OCA and Pre-Award assessments reveal problems of such magnitude as to raise doubts about the CSO's capacity to undertake the proposed activities or properly account for funds - even with technical assistance – the assessment team will notify the Director, who may chose to delay funding until the issues are resolved. If the issues cannot be resolved and Pact's decision is not to continue with the activity, Pact will notify the CSO of this decision in writing.

If the CSO qualifies for the sub-grant, they will receive a sub-grant agreement to read and sign.

Sub-grant agreement

Once the decision has been made to proceed, Pact Tanzania and the recipient CSO must sign a sub-grant agreement before any funds are disbursed. Sub-grant agreements will be prepared in duplicate and one copy is to be retained by Pact and other by the CSO.

A sample of the agreement is contained in Appendix IV. The USAID Regional Contracting Officer has reviewed this sub-grant agreement and there will be no need to obtain prior review of the actual sub-grant agreements if there are no substantive changes for the approved version. The Director and Program officers will have personally gone over the sub-grant agreement document with the recipient CSOs prior to signing it.

During the period of the activity, it may be necessary to change the scope of a sub-grant agreement. Pact should be informed immediately and if consensus is reached,

the sub-grantee should include details of the requested changes and rationale, after which Pact will prepare an amendment to the sub-grant agreement, which will require CSO signature. Reasons for a sub-grant amendment may include:

- Activity is no longer feasible to conduct and the agreement is to be terminated;
- The budget is inadequate to carry out the activity; and
- Nature of activity has changed.

Sub-Grant disbursement

The disbursement of funds will be made based on the approved disbursement schedule and budget. The disbursement will be made at one time, incrementally or monthly depending on the nature of the sub-grant. After the sub-grant agreement is signed, the CSO should submit to Pact Tanzania a funds disbursement request covering the disbursement for the first 30 days or as outlined in the sub-grant agreement (See Appendix V).

Payment will be made by cheque drawn from the Pact Tanzania account directly to the CSO. The CSO should keep records and supporting documents (receipts) for all Pact Tanzania funds and have them always available for inspection by Pact Tanzania or USAID representatives.

Reporting Procedures

The CSOs shall furnish Pact Tanzania with regular financial and narrative reports. The reports may be monthly or just final depending on the duration of the activity and nature of sub-grant. All reports shall be properly documented with supporting vouchers, invoices and receipts attached (It is important that the supporting documents forms an audit trail³). The financial reports will be prepared using the form provided by Pact Tanzania (see Appendix VI) and be submitted along with a bank reconciliation report (if a separate bank account was opened for the grant). The narrative report should adequately describe progress toward the achievement of the stated objectives and at the same time reflect the use of the sub-grant funds. If the reports are not submitted or are not in the form acceptable to Pact Tanzania, further payments to the sub-grantee may be withheld by Pact after due notice to the CSO.

The sub-grantee accepts, understands and agrees to the following financial management and reporting procedures:

- a. Maintaining separate accounting records of transactions related to the sub-grant funds and applying them to generally accepted accounting principles;

³ In accounting an audit trail is the sequence of paperwork that validates or invalidates accounting entries.

- b. Maintaining accounting records that properly record and support disbursement of sub-grant funds in accordance with the approved budget;
- c. Providing Pact Tanzania full access to the books and records of the sub-grantee (including site visits) to verify assertions in the financial reports submitted by the sub-grantee;
- d. The sub-grantee undertakes to return to Pact Tanzania at the end of the sub-grant period all unused funds and any amounts determined by Pact Tanzania as not allowable expenses under the terms and conditions of the sub-grant agreement;
- e. The sub-grantee is required, within a period of 30 calendar days after the conclusion of the activities covered by the sub-grant agreement, to submit a final financial report using a form supplied by Pact Tanzania to the sub-grantee.
- f. The sub-grantee shall keep accounting records, reports and documentation related to the activity covered by the sub-grant agreement for a period not less than three years after the completion of the project's last financial reports.

Management of the Sub-Grant

Pact is bound by USAID regulations on grant management and therefore it is expected for CSOs to abide by the same rules. The CSO is advised to ensure that the staff involved in the implementation of the grant-funded activity is familiar with the terms and conditions of the sub-grantee agreement and USAID regulations on grant Management. See Appendix VI for information on USAID regulations.

Monitoring the Sub-Grant

Once sub-grants have been awarded, Pact Tanzania will monitor and evaluate through an on-going process, both programmatically and financially, with regular review of the reports and periodic site visits. This is to foster continued technical support on financial management and advocacy strengthening. For each award Pact Tanzania will make at least one site visit to the sub-grantee's offices and in the field.

Audit

Pact Tanzania (and USAID) reserves the right to audit any project at any time, particularly if the financial reports are seriously delayed or if monitoring visits uncover serious financial or administrative management problems, such as unaccounted funds, theft, inadequate bookkeeping, etc. Sub grantees will be informed in advance if Pact Tanzania intends to make an audit on the projects. If the reason for the audit is suspected problems in the management of funds, the sub grant may be suspended pending the outcome of the audit. In all cases preliminary audit reports will be issued, and comments will be requested from the respective CSO prior to finalization.

Once the audit is finalized, Pact Tanzania will decide whether or not to continue with the sub grant, based upon the conclusions of the audit. All audit findings, including reimbursement of disallowed expenses or embezzled funds identified as a result of an audit, must be resolved within six months of the date the audit is finalized.

Technical assistance and training

Technical assistance and mentoring to CSO sub-grant recipients will be provided in the management and implementation of TAPP activities. The purpose is to achieve program results and to strengthen the CSO's capacities to serve as an advocacy organization within the scope of USAID's expanded Strategic Objective. The areas of technical assistance will primarily be in the areas of (a) advocacy, (b) financial management and administration, (c) organizational development, and (d) leadership/governance.

Pact Tanzania will follow the OCA methodology to assist in the diagnosis of training and technical assistance needs. Pact Tanzania and its partners will also provide technical assistance and mentoring to ensure recipient activities are in compliance with USAID standard provisions and regulations and that the results achieved are mutually agreed upon and beneficial to all parties.

Sub-Grant Closeout

Sub-grants should be closed out within thirty days following (a) the termination of the sub-grant agreement or (b) the conclusion of the sub-grant period. Sub-grantees must submit to Pact Tanzania all financial, technical and any other information required by the sub-grant agreement. Pact Tanzania will ensure that all advances are liquidated, including the reimbursement of any unused cash, and that all expenses have been properly documented. If during the review of this documentation, anything comes to the attention of Pact Tanzania staff that there are unexplained irregularities, the CSO will be contacted in writing for explanation.

Governing US Federal regulations

1. USAID special and standard provisions ADS 303, OMB Circular A-122 and 22 Code of Federal Regulations (CFR) part 226 apply to the administration of the projects/activities funded under the sub-grant agreements. Appendix VII is the complete 22CFR 226 and copies of the other US Federal regulations are available from the Pact Tanzania office.

Pact Tanzania will be notifying sub grantees on new or changes made to any of the rule and regulations.

Appendix I

ACTIVITY	PACT	OWN SOURCE	XYZ LTD	TOTAL
<p>ACTIVITY I: Training of peer educators</p> <p>Training will involve three (3) facilitators who will develop training manual for each of the 40 participants in each phase. The event will be residential for six (6) days held in Morogoro for initial phase and Iringa for the second and will include participants from Morogoro, Dodoma and Iringa regions.</p> <p>1.1 Accommodation – Full board 83 persons for 12 days @ 20, 000/=</p> <p>1.2 Travel costs (Estimated based on the regions & ground mode of transportation)</p> <p>1.3 Conference hall hire – 50, 000/= per day for 12 days</p> <p>1.4 Development of training materials – photocopying 10,000/= copies @ 150/=</p> <p>1.5 Binding 82 books @ 1500/=</p> <p>Sub – Total ACTIVITY I</p>	<p></p> <p>5, 160, 000</p> <p>500, 000</p> <p>300, 000</p> <p>750, 000</p> <p>61, 500</p> <p>6, 771, 500</p>	<p></p> <p></p> <p>300, 000</p> <p>750, 000</p> <p>61, 500</p> <p></p>	<p></p> <p>5, 160, 000</p> <p>500, 000</p> <p></p> <p></p> <p></p> <p>6, 771, 500</p>	<p></p> <p>10, 320, 000</p> <p>1, 000, 000</p> <p>600, 000</p> <p>1, 500, 000</p> <p>123, 000</p> <p>13, 543, 000</p>
<p>Activity II II.I.....Provide details..... II.II.....etc Sub – Total ACTIVITY II</p>				
<p>Activity III..... III.IProvide details.... III.II.....etc Sub-Total ACTIVITY III</p>				
<p>GRAND TOTAL FOR ALL ACTIVITIES</p>	<p>6,771,500</p>	<p>1, 111, 500</p>	<p>6,771,500</p>	<p>13,543,000</p>

Appendix II

Pact Tanzania Sub-Grant Application Format

This Sub-Grant Application Format (*Refer "How to make an application on the guidelines"*) is to be used by CSOs requesting a sub-grant under Pact's Tanzania Advocacy Partnership Program.

General Guidance:

While sufficient information is required to permit Pact to make a decision on whether Pact should provide sub grant to a CSO, the detail of information required and the length of the proposal will depend on the complexity of the proposed activity and the amount of funding and support requested. As a general rule, a proposal should not exceed 10 single spaced typewritten pages.

Solicitation Number: _____

Name of CSO/NGO: _____

Project Title: _____

Project Location: Region and District: _____

Anticipated beneficiaries: Male _____ Female _____ Total _____

Type of Beneficiaries: _____

Responsible Person's Name _____

Address: _____

Tel: _____
Fax: _____

E-mail: _____

1. EXECUTIVE SUMMARY:

(Please limit this section to between one half to one page in length)

Please provide brief description of project overview, including goals, purpose, key activities and expected results. Summarize the problem and how it will be addressed. Describe the core business of the organization and how it is uniquely qualified to solve the problem. Indicate how much funds are required to implement the project and from which sources. (Please limit this section to one-half to one page in length).

2. ORGANIZATIONAL BACKGROUND:

(Please limit this section to one page in length only):

This section intends to tell us about your organization. The review will be looking for key aspects that demonstrate your organization's capacity to implement projects.

1. State your organization's mission (*Why do you exist? What were the purposes of forming your organization and doing what you do?*). We want to determine whether this project contributes to your mission.
2. State whether your organization will be the sole implementer or there will be a portion of the program that will be implemented by another organization.
3. Give a brief history of your organization, including
 - How long in existence.
 - Experience in the sector and in the respective thematic area if you specialize e.g. (Health – HIV/AIDS or MCH etc.)
 - Nature of core business activities.
 - Describe how experience of individuals involved in the proposed project will contribute to the success of the proposed project.
4. Give your experience in the proposed geographic areas and previous donors.
5. Tell us about the approximate operating budget of your organization per annum, including the source of funding.
6. Tell us about how your organization is staffed (employed, volunteers, members etc), how many.

3. PROJECT RATIONALE:

(Please limit this section to one page in length)

This section tries to seek an answer to a question “why this project?”. The applicant is expected to provide a clearly stated justification for the project. The reviewing panel will be seeking answers for the question “do we understand why / what they want to do?” The following are key issues that should feature in this section: -

1. What is the problem or issue?
2. Why is the project important?
3. Who will benefit?
4. What will the project do that has not been done?

In this process of justifying your proposed project you must demonstrate understanding of the environment. For instance, what is perpetuating the problem as well as fostering potential solutions. We encourage the use of baseline survey data to explain the environment. We will also be looking for demonstrated in-depth knowledge of other organizations or networks doing similar or related activities that you are aware of. You need to demonstrate that you are aware of current initiatives in the respective sector as we seek to promote collaboration and sharing of information among stakeholders.

You may describe critical assumptions if relevant. These are assumed instances which if becomes reality the project may not achieve its intended objectives.

4. PROJECT DESCRIPTION:

(Please limit this section to between one and two pages in length).

This section focuses on what does the proposed project seek to achieve. The key factor in this section is to provide a description of the interrelationship between the goal of the project, activities to be carried out, inputs to be provided and results to be achieved. We provide below what we refer to when we speaks of project goal, objective, activities and inputs.

Goal and Objectives: The goal of the project should be stated in broad terms. The goal represents achievements to which the project is intended to contribute in the long term as a result of achieving the project objectives. This is the level at which project beneficiaries are able to sustain the positive benefits without the project inputs. E.g. Improve the economy of rural Kagera Region.

The objectives are specific to the proposed project and state what the project itself is expected to achieve. What do you expect to happen as a result of the project? What will change? E.g. increase the production and sale of high quality bananas by small farmers.

Activities: Activities consist in the specific tasks to be carried out under the project to achieve the objectives. These are what project staff and target population are going to do. Activities have to be explained in the proposal in order to give Pact a clear understanding of why they are needed, how they will be carried out, how they are inter- related and how the sum of activities will result in the project objectives. E.g. provide technical support to existing farmer groups.

Inputs: List the inputs required to carry out the project's activities i.e. what resources the project is necessary for performing the project activities. Inputs can be in the form of personnel, equipment, supplies and funds.

5. IMPLEMENTATION PLAN.

(Please limit this section to between one and two pages in length)

The proposal should have implementation plan that describes what activities will be conducted and when they will be undertaken. The discussion in this section will describe the manner in which the project will be carried out. The basic question is "Who is involved and How". We seek description of the key actors and what will be their roles in the project. These actors might include community groups, your organization's members, members from the network or consortium, government representatives, the media, other TAPP partners etc. The below format will help you to develop an implementation plan:

PROJECT IMPLEMENTATION PLAN

OBJECTIVE: _____

Activities	Project Months/Duration												Resources Needed	Person Responsible	
	1	2	3	4	5	6	7	8	9	10	11	12			

- KEY:**
- Activities:** List the activities identified to achieve the respective objectives.
 - Resource Needed:** These are the inputs required to accomplish the activity. We prefer not to be expressed in monetary terms. For instance, an activity may be a Training workshop; Resources can be stationeries, a resource person etc.
 - Person Responsible:** These are persons who would be responsible for each activity. Kindly define any acronyms used to identify a responsible person.

If the NGO is carrying out other activities, describe their relationship and possible interaction with the proposed project. Provide a listing or organizational chart which identifies responsible parties for managing the project. If training is an essential component of the project, a training plan should be included. The training plan should provide the following information:-

- A profile of the target group
- Objectives of the training
- An outline of major topics to be covered in the respective training.

Note: The activities described in this section should be the same activities detailed in your budget.

6. SUMMARY COST ESTIMATES and FINANCIAL PLAN

(Number of pages will be determined by the number of activities)

The Financial plan, which will enable Pact to determine if costs proposed by the NGO are reasonable, should include the following:

- a) A detailed budget broken down by activity and by line items (Refer to sample financial plan on Appendix XXX)
- b) NGO and or community contribution; cash & in kind valued at 25% on total proposed project costs. (If applicable). For example, consider a project proposals whose total cost is \$5,000. \$3,750 of the total amount is being requested from Pact and \$1,250 is applicant's contribution (whether in kind or in cash). The 25% contribution is NOT the 25% of the amount being requested from Pact (\$3,750). It is the 25% of the TOTAL (\$5,000) project cost.
- c) Availability and anticipated other sources and amounts for funding.
- d) Only allowable, allocable and reasonable cost estimates are included (Refer "Selection and Review of Applications" sections of the manual.

7. MONITORING and EVALUATION PLAN

(Please limit this section to 2 pages in length)

This section seeks to answer the question "How will you monitor project progress?" You need to clearly define how your results are measurable i.e. if, for example, the result is "Awareness raised" – you need to ensure that you indicate how this can be measured. Therefore we require explanation on: -

- How and who will be responsible for measuring the progress made towards completion of activities and attaining project objectives.
- Identify the type of program indicators to be used in measuring the achievements of results and how will the project be evaluated after completion of the activities.

Appendix III a:

Pact Tanzania

Pre-Award Financial Questionnaire-Recipients of Pact Tanzania Funding

Pact Tanzania uses this questionnaire to verify recipient ability to comply with requirements associated with government and multi-lateral donor agency funding, particularly the U.S. Government A-133 Audit requirement.

For non-U.S. organizations, Pact Tanzania recognizes that the accounting practices and legal framework, and practices regarding disclosure of information vary with respective country. However, the information requested in the questionnaire is necessary for Pact Tanzania to determine the recipient's preparedness for administering donor agency funding and to assess what, if any, guidance may be required. Pact Tanzania asks that recipients complete the questionnaire and provide information that is as nearly equivalent in the local context to that which is specifically requested.

(Please type or print; Electronic copy will be made available upon request)

Recipient Organization: _____

Address: _____

Telephone/Fax: _____

Individual completing this form:

Name and Title

I GENERAL

1 Type of Organization Non-Profit Education al Government Agency For-Profit _____

Other _____

2 Is the Organization incorporated/registered/licensed as a legal entity? Yes No _____

a. If YES: Place of Incorporation/Registration
(State/Country): _____

Incorporation/Registration Date: _____

b. If NO: List parent company/organization name & address or explain status:

Through other donor organizations:

List donor organizations:

Total USG Funds:

3. Is the organization receiving any USG funding, directly from a U.S. Government agency or through another organization, during the current fiscal year?

Yes ____ No ____

If YES, what amount? _____

(If the organization is a for profit, please proceed to Part V.)

4. Has the organization ever been audited in accordance with OMB Circular A- 133 guidelines for USG Funds?

Yes ____ No ____

If so, covering what period?

What was the auditor's opinion? Unqualified approval/Qualified Approval/No opinion rendered
(Circle One)

5. If the organization has not completed an A-133 audit, when will one be performed? _____ covering what period? _____

NOTE: A non-profit organization or institution of higher learning receiving a total of US\$ 25,000 or more in one year from, PACT, Inc. funded by USG sources is subject to an A-133 audit under the auspices of Pact, Inc. However, effective July 1, 1996 (fiscal year ending 6/30/97) only U.S. based organizations that expend more than \$300,000 will be subject to an A-133 audit and non-U.S. based organizations will not longer be subject to an A-133 audit requirements.

6. Is your organization formally excluded (debarred or suspended) from receiving US Government finding?

Yes _____ No _____

II. DOCUMENTATION

Please provide a copy of the following documents, if available:

1. A copy of the organization's certificate of registration, incorporation or an equivalent document granting legal status to do business *[See 1.2 above]*
2. A copy of the organizations bylaws.
3. A copy of the most recent annual report, Or some other document(s), which includes: (a) mission statement (b) list of current Board of Directors, and (c) key personnel.
4. A list of individuals authorized to sign on behalf of the organization.
5. A copy of the organization's latest audited or prepared Financial Statements.
6. A copy of the organization's latest A-133 audit report *[Not applicable for for-profit organizations. See IV.3 above.]*

*Please attach any traditional information you believe will be helpful in providing the information requested above or for addressing any special accounting or legal issues.

Appendix III b:

Name of Organization:
Date of Assessment:
Conducted by:

Assessment Scales		
RISK LEVEL DETERMINATION		RATINGS
		n/a NOT APPLICABLE
EXTREMELY HIGH	0-20%	1 NEVER/DEFINITIVE "NO" 2 RARELY/DEMONSTRATED CAPACITY IS LIMITED
HIGH	21-35%	3 SOMETIMES/CAPACITY EVIDENT BUT LACKING IN CRITICAL AREAS
MODERATELY HIGH	36-50%	4 USUALLY/ADEQUATE CAPACITY IN MOST AREAS 5 OFTEN/GOOD CAPACITY WITH ONLY MINOR IMPROVEMENTS REQUIRED
MODERATE	51-70%	6 ALWAYS/DEFINITIVE "YES"/STRONG CAPACITY
MODERATELY LOW	71-85%	
LOW	86-100%	

<p>SUMMARY OF FINDINGS</p> <p>1. Level of Risk:</p> <p>2. Baseline Findings:</p> <p>a. Accounting Procedures:</p> <p>b. Internal Controls:</p> <p>c. Budgeting, Reporting, & Auditing:</p> <p>d. Policy Environment:</p>

A. ACCOUNTING PROCEDURES		COMMENTS
1 General System		
A There is a written policy on accounting. It is objectively reasonable and universally applied		
B "Cash" or "Accrual" system is defined and applied on a consistent basis		
2 Receipts and Handling of Cash		
A Grants received, but not yet spent for the purposes for which they were given, are carried forward as restricted funds		
B Procedures and responsibilities are clearly defined. For example, only the cashier is authorized to receive cash		
C Pre-numbered receipts bearing the name of the organization are issued for all cash receipts		
D Unused receipt books and voided receipts are kept properly secured and there are proper procedures as regards their issue		
E All cash received is recorded immediately and promptly deposited in the bank		
F There are adequate security arrangements as regards custody and transit of cash		
3 Recording		
A All payments are supported by payment vouchers		
B Vouchers are properly supported by adequate documentation and explanations This documentation may include: local purchase order, quotations, invoices, receipts, correspondence, proof of delivery		

C	Vouchers together with supporting documentation are filed in the order in which they are entered in the cash book and can be readily found		
D	Documents are properly approved for payment and cancelled (ie. stamped PAID) upon payment		
E	Payments are properly allocated to the correct project		
F	All bank accounts are in the name of the organization		
G	All bank accounts are included in the accounts of the organization		
H	There is proper control over use and safekeeping of checks		
I	All checks or funds transfers are signed jointly by two of at least three signatories (one check signatory is someone other than the person who has authorized payment)		
J	No checks are signed in blank		
4 Bank Accounts			
A	The details of each check payment are recorded on the check counterfoil (or check stub)		
B	Bank reconciliations are prepared on a regular basis for example, at the end of each month.		
C	Bank reconciliations are prepared		
D	Bank reconciliations are checked and approved by someone other than the one who prepared the reconciliation		
E	Outstanding items on bank reconciliations are followed up promptly and out of date items written off		
F	There are adequate controls as regards signing of checks. For instance, above a certain threshold, more than one signatory is required.		
G	If bank accounts are maintained in both USD and local currency, are USD amounts converted to local currency in accordance with the country's legal requirements, and adequately supported?		

5	Cash Book(s)		
A	Cash book(s) are kept for all cash and bank transactions		
B	All entries are made in ink		
C	The cash book is written up to date		
D	Cash book additions and cross additions are correct		
6	Petty Cash Records		
A	Petty cash counts are carried out at intervals, two people being present (including the petty cashier), and the cash balance agreed to records		
B	There are no "IOU's", or similar payments entered in the petty cash book Note: These may come to light when the cash reconciliation is controlled by a person other than the petty cashier.		
C	The petty cash impress (float) is established at a reasonable level		
D	Petty cash expenses are supported by adequate documentation		
E	The petty cash book is checked when the cash float is replenished		
F	Petty cash is properly secured in a cash box with limited access to unauthorized personnel		
7	Ledger		
A	Postings of amounts from the cash book(s) to the accounts in the ledger are kept up to date		
B	Are any reports generated periodically from the ledger for review by management?		
C	An up to date Chart of Accounts together with account reference numbers is available		
D	The authorization of the executive director (or equivalent position) is required when it is proposed to open new accounts or close old ones		

	Opening balances agree with prior year end balances		
E	Additions and postings to individual ledger accounts are correct		
F	Are funds from different donors tracked separately?		
G	If an automated accounting system is in use, is there mechanism in place to ensure that the accounts cannot be manipulated after period closure?		
	8 Journal		
A	Transfers between one ledger account and another are recorded in a journal which shows the reason for the transfer and supporting documentation is attached as appropriate		
A	All journal entries are authorized by the Finance director		
	9 Trial Balance		
A	A trial balance is prepared within a reasonable time at the end of each month		
B	The trial balance accurately lists all account balances		
C	The trial balance is mathematically correct and the debits balance with the credits		
D	The trial balance agrees with the figures on the monthly financial report		
	10 Payroll and Salary		
A	Adequate payroll records are kept, are accurate and negotiated salaries and increments are the basis for payment.		
B	There are adequate procedures to ensure that pay is correctly calculated, adjustments being made where appropriate for unpaid leave, overtime, etc.		
C	The payroll is reviewed, authorized and countersigned by the Finance director		
D	Time sheets are completed by all employees, and are countersigned by an immediate supervisor. Payments are		

	correctly charged to cost centers based on the time sheets		
E	Someone other than the person who prepares the payroll is responsible for paying out wages to employees		
F	Employees are required to sign for their pay		
G	In an accrual based accounting system, are payroll accruals properly recorded and tracked?		
H	All payroll taxes and other deductions are properly calculated in accordance with local regulations		
I	Payroll taxes and other withholdings are paid over to relevant government departments on time		
B. INTERNAL CONTROLS			
1 Approval Controls			
A	Specific transactions are approved by persons having the authority to do so in accordance with established policies and procedures		
B	Key records are matched before a transaction is approved (matching purchase order, receiving report and vendor invoice before the invoice is approved for payment)		
2 Segregation of Duties			
A	The individual responsible for the cash receipts function does not prepare checks, sign checks or reconcile the bank accounts, and is not responsible for non-cash accounting records such as accounts receivable, the general ledger or the general journal		
B	The person receiving cash does not have the authority to sign checks and reconcile bank accounts and does not have access to accounting records other than cash receipts		
C	Different individuals are responsible for purchasing merchandise or services, receiving merchandise or services and approving vouchers		
3 Design and Use of Records			

A	Key pre-numbered forms are used to record all of an organization's transactions, and accountability is maintained for the sequence of all numbers used		
B	Receiving reports, inspection documents, etc. are matched with billing notices or other documents used to record delivered orders and related liabilities to provide assurance that only valid transactions are recorded		
C	Transaction documents, such as vendor invoices and shipping documents, are date stamped and tracked to ensure that they are recorded on a timely basis		
D	Source documents are stamped "PAID" after processing to provide assurance that the same documents will not be reused and will not result in recording transactions more than once. Also, only original documents are used to process transactions		
E	Voided documents are not be shredded or destroyed but are retained as support documentation		
4 Safeguards over assets and records			
A	Cash receipt totals are recorded before cash is transmitted for deposit		
B	Secured facilities are used when appropriate, and access to critical forms and equipment is limited to authorized personnel		
C	Procedures are established to provide reasonable assurance that current files can be recovered in the event of a computer failure		
5 Independence checks			
A	Extensions, additions and accounting classifications are independently reviewed		
B	Assets on hand are periodically inspected and counted, and the results are compared with asset records		
C	Management reviews and acts upon performance (finance, program, audit or other) reports		
D	Actual operating results are compared with approved		

	budgets, and variances are explained		
	C BUDGETING, REPORTING, AUDITING		
	1 Budgeting and Reporting		
A	Long-term and annual financial projections for the organization are prepared		
B	Budget approval authority is described in policy documents		
C	Grant/Contract conditions are communicated to all interested parties		
D	Cash flow (Income/Expense) is integral to financial plan		
E	Monthly financial statements are compared to approved budget and material variances are addressed		
F	Policy and practice provide evidence that financial reports are:		
i)	Summarized monthly		
ii)	Tie directly to established set of accounting records		
iii)	Communicated with key management staff within reasonable time		
G	Summarized accounts are distributed to interested parties		
	2 AUDITING		
A	Audit contract(s) are clear in scope/program and authority		
B	Audit findings are addressed as standard practice		
C	Project auditors are licensed to perform audits		
D	Project auditors are properly independent of the functions which they are auditing		
E	Project auditors visit project/end-use sites on a test basis		
F	Project audit reports are issued within a reasonable time		

	following each project audit (e.g. 1 month)		
G	Project audit reports are adequately followed up // A separate file is maintained for each project audit performed		
H	audit staff are not involved in project management or in maintaining the organization's books of accounts.		
I	An independent professional audit of the annual accounts is arranged each year		
J	The management committee and governing body consider the report and recommendations of the auditor at the meeting when the annual accounts are discussed		
K	Recommendations from previous audit reports are followed up		
3	COST SHARE/MATCH		
A	If the organization proposes match, does it maintain verifiable records of match reported?		
4	INDIRECT COST		
A	Has the organization undergone an audit to certify their proposed indirect cost rate?		
B	Does the organization allocate indirect costs appropriately?		
D	POLICY ENVIRONMENT		
1	ETHICS		
A	There is a written employment policy. It is objectively reasonable and universally applied		
B	Policy and practice demonstrate attention to prohibition of nepotism or favoritism through processes of:		
i)	Employment of new staff		
ii)	Review of staff performance with a view to promotion or increase in salary		
iii)	Dismissal of staff for whatever reason		
C	Policy and practice dictate that employees are not permitted to hold office or positions in other companies or bodies with which the organization has contractual relationships.		

	Disclosure of potential "conflict of interest" should documented policy.		
D	Policy prohibits absolutely any illegal dealings on behalf of itself or other parties		
E	There is no evidence of instances of misuse of the assets of the organization by employees		
F	There is no evidence of instances of employees being involved in their own private enterprise during office hours		
G	Policy encourages staff, through clear and confidential mechanisms, to report any practices or deals which do not conform to generally accepted ethical standards		
H	Policy as well as general constitution, both written and unwritten, encourage high moral thinking and conduct		
	2 ORGANIZATIONAL POLICY		
A	Documented policies establish events and/or transactions that the organization is authorized to engage in accordance with law, regulation or management policy		
B	The organization has an environmental policy		
	3 PERSONNEL POLICY & MANAGEMENT		
A	The management has a list of all staff employed, their designations and remuneration levels		
B	Each new employee is interviewed before s/he is employed		
C	References are required and followed up		
D	A Contract of Employment in writing is prepared for each employee (before commencing employment), and signed by both Employer and Employee		
E	Written Job Descriptions are prepared for each employee, showing what each person is expected to do, when it should be done and to whom they are accountable		
F	A personal file is kept for each employee, with details of salary and other personal matters		

G	Salary rates (and any changes to these) are authorized by the highest governing body and the details recorded in the minute book		
H	The organization has written internal regulations covering such matters as hours of work, holidays, sick leave, discipline, dismissal, etc.		
I	An organizational chart exists and the list of board of directors is available		
J	Employees know with whom they can discuss any work or personal problems		
K	Adequate and appropriate financial provision is made for pensions and /or gratuities for retiring employees		
4 TRAVEL/TRANSPORT POLICY & MANAGEMENT			
A	The organization has a travel policy and applies it on a consistent basis		
B	Travel cost reimbursement for staff, both domestic as well as regional/international is clear in policy and practice		
C	Mechanisms exists for reporting and liquidating travel expenses		
D	If vehicles exist:		
i)	A vehicles register is maintained, showing cost, date of purchase and estimated date of replacement		
ii)	Vehicles are garaged in a safe place		
E	The use of vehicles is properly controlled:		
i)	use is limited to the business of the project		
ii)	use is limited to employees of the project		
iii)	the users of vehicles maintain the vehicle log book, showing date, journey details, kilometres at start and end		
iv)	users report any vehicle faults to the manager		
v)	There are no circumstances when project vehicles are used		

	for unauthorized private purposes by staff or other persons		
vi)	If the answer to the previous question is "NO", the circumstances and conditions of authorized private usage are clearly indicated in the office regulations		
F	The purchase of petrol is properly controlled:		
i)	purchases are made only by authorized persons, from authorized suppliers		
ii)	a record is kept each time fuel is purchased		
iii)	a control is kept of fuel consumption for each vehicle		
5 PROPERTY POLICY & MANAGEMENT			
A	The organization has suitable premises to accommodate the staff and to carry out its activities		
B	If the organization owns land or buildings: the title deeds are legally registered, and kept in a secure place		
C	Leases (tenancy agreements) have been prepared for all property rented to or from the organization		
D	Someone has been nominated as responsible for the proper maintenance of all property		
E	Adequate insurance has been taken out against fire, burglary, public liability, etc.		
F	Records are kept of agreements with persons using premises owned by the organization, including rent payable, etc.		
G	An up to date fixed assets register is maintained		
H	The fixed assets inventory is complete and regularly checked by management		
I	The fixed assets listed actually exist		
J	Additions and disposals of assets are authorized and properly recorded in the accounts		

K	There is adequate insurance cover for all assets		
L	Assets are kept in suitable and secure locations		
M	Donated assets are properly valued and recorded		
N	Assets are properly marked and labeled		
6 PROCUREMENT POLICY			
A	All procurement is authorized with different authorization levels for different thresholds		
B	All procurement is supported with adequate documentation including quotations, requisition notes, purchase orders		
C	A competitive solicitation process is practiced and justification for selection of vendor documented		
D	Suitable records are maintained showing amounts due to suppliers		
E	These records are regularly reconciled to statements and accounts received from the suppliers		
7 SUB-GRANT MANAGEMENT			
A	Does the organization have a system that can manage a grant?		
8 PROJECT MANAGEMENT			
A	Does the organization have a system that can track funds received and used by project?		
B	Does the organization report to donors (if any) on time?		

Methodology:

1. **The assessor should avoid being “intrusive” during the exercise. Being sensitive to the organization during the exercise is as important as completing the job.**
2. **Much of the questionnaire should be completed before the face-to-face interview which is used to clarify and validate findings.**
3. **Examples of documents that can be reviewed before a face-to-face interview include, but are not restricted to, audit reports, organizational policies and procedures, constitution and by-laws, board meeting minutes, previous years’ annual reports.**
4. **Other documents that can be reviewed during the visit are personnel records, accounting records, files containing supporting documentation, inventory register, petty cash records, staff meeting minutes**

Appendix IV:



SUB-GRANT AGREEMENT NO. _____

Between Pact Inc., a Non-Profit Organization, with domicile in Washington D.C. USA and a representative office in Tanzania at Plot 1378, Msasani, in the city of Dar es Salaam, represented by Mr. Dan Craun-Selka, hereinafter called Pact Tanzania,

AND

_____, a Non-Governmental Organization operating in Tanzania with domicile in *P. O. Box 12183, Dar Es Salaam* represented by _____, hereinafter called the Sub-Grantee.

Pact Tanzania, within the scope of "Cooperative Agreement No. 623-A-00-01-00123-00 between the United States Agency for International Development (USAID) and Pact Inc., has been provided with the authority and financial resources to provide sub-grant awards to Tanzanian Non-Governmental/Civil Society Organizations for the purposes specified in Article I, below.

Thus it is established in this Sub-Grant that:

ARTICLE I PROGRAMME DESCRIPTION

The Pact Tanzania program is one of several mechanisms established and funded by USAID/Tanzania toward achieving the goal of Civil Society and Government becoming more effective partners in governance in Tanzania.

The focus of this Sub-Grant is to build upon and strengthen the Sub-Grantee's advocacy efforts. In addition to providing funds under this Sub-Grant, Pact Tanzania may provide technical assistance, as may be agreed between the Sub-Grantee and Pact Tanzania, specifically targeted to increase the likelihood that the Sub-Grantee will be successful in attaining the intended results from this Sub-Grant.

Pact Tanzania hereby grants financial support to the Sub-Grantee so that it may undertake activities in support of the objectives described in the Sub-Grantee's Programme Description, which is annexed to this Sub-Grant as Attachment 1 and is incorporated by reference into this Sub-Grant.

ARTICLE II
SUB-GRANT PERIOD

1. The effective period of this Sub-Grant runs from _____ to _____, except in case of written modification resulting by mutual agreement between Pact Tanzania and the Sub-Grantee. All expenses paid with funds granted under the scope of this Agreement must relate to activities covered by this Sub-Grant during the effective period.
2. If commencement of the activities covered by this Sub-Grant does not take place within one month after the beginning of the effective period, Pact Tanzania reserves the right to terminate the agreement without further obligation.

ARTICLE III
AMOUNT OF THE SUB-GRANT, CONDITIONS AND METHOD OF
DISBURSEMENT

1. AMOUNT OF THE SUB-GRANT

The total amount of this proposal is Tanzanian shillings _____.
The sub-grantee agrees to contribute Tanzanian shillings _____ from own and other sources, with the remainder not to exceed Tanzania Shillings _____ provided by Pact Tanzania as described in Attachment 1. The approved budget for the activity described in Attachment 1, the respective shares of Pact Tanzania and Sub-Grantee funds, and the budget line items are detailed in Attachment II.

- a) The Sub-Grantee may not make material transfers between approved budget line items without prior written authorization from Pact Tanzania. "Material transfers" shall be deemed those which exceed 10% of the approved amount for each line item. The total amount for the Sub-Grant shall not be exceeded.
- b) All expenses paid with funds received by the Sub-Grantee under this Sub-Grant shall be for approved activities occurring within the period specified above in Article II.
- c) No expenses for presents, gifts, alcoholic beverages or fines may be paid with funds received under this Sub-Grant.
- d) All purchases of goods and services with funds under this Sub-Grant must be in accordance with USAID's Code of Federal Regulations contained in

22 CFR 226, "Administration of Assistance Awards to U.S. Non-governmental Organizations", and OMB Circular A-122, "Cost Principles for Non-Profit Organizations". Procurement of goods and services must be in accordance with the rules on source and nationality as set out in 22 CFR 228. Copies of the relevant sections in the regulations, with a summary description, are annexed to this Sub-Grant in the TAPP Sub-grant Manual.

2. CONDITIONS AND METHOD OF DISBURSEMENTS

The disbursement of funds from Pact Tanzania to the Sub-Grantee shall be made by Tanzania Shilling cheque, drawn on Pact Tanzania's bank account in Dar es Salaam to the order of the Sub-Grantee. The Sub-Grantee shall advise Pact Tanzania of the Bank Name, Account Name, Account Number, and Name of persons authorized to draw cheques on the Sub-Grantee's Account.

If required, Pact Tanzania will disburse funds to the sub-Grantee on a monthly basis in accordance with the following process:

- a) After signing this Sub-Grant, the Sub-Grantee shall submit a funds disbursement request to Pact Tanzania, using a form supplied by Pact Tanzania, covering projected expenses for the first three (3) months of operations. Transfer of these funds by Pact Tanzania to the Sub-Grantee will constitute the first disbursement under this Sub-Grant. The amount of the initial disbursement will be based on the CSO's immediate needs.
- b) Subsequent disbursements will be made after three months (a quarter) by Pact Tanzania based on projected funds requirements for each succeeding three (3) months period as indicated in monthly financial reports submitted by the Sub-Grantee to Pact Tanzania, described below in Article IV.
- c) With the exception of the first disbursement under this Sub-Grant described above in Article III.2.a, disbursement of funds shall be conditional upon receipt and acceptance by Pact Tanzania of the Sub-Grantee's monthly financial reports and quarterly programme reports described below in Article IV.

ARTICLE IV REPORTS

1. If the sub-grant is a one time payment, the Sub-Grantee shall submit within a period of 30 calendar days after the conclusion of the activities covered by this Sub-Grant, a final financial report using a form supplied by Pact Tanzania to the Sub-Grantee.

2. If the sub-grant activity takes more than one month, the Sub-Grantee shall submit, within 15 calendar days after the end of each month, a financial report of the expenses incurred in the month just ended. Each monthly financial report shall consist of:
 - Cash Projection Report (using a form supplied to sub-grantee by Pact Tanzania) projecting funds' requirements for the next one month (if appropriate);
 - Pact Tanzania's Monthly Financial Report Chart (using a form supplied to the Sub-Grantee by Pact Tanzania);
 - Bank reconciliation (if opening a separate account for the Pact funds).
3. The Sub-Grantee shall submit, within 20 calendar days at the conclusion of each quarter (three months), a quarterly technical report to Pact Tanzania, using a form to be supplied by Pact Tanzania, covering the following items:
 - a) Summary of key activities undertaken during the reporting period;
 - b) Description of progress toward attaining the activity results according to the indicators in the evaluation plan included in the Programme Description (Attachment 1)
 - c) Description of the problems encountered, their potential effect on success of the activity covered by the Sub-Grant, and proposed action by the Sub-Grantee to address the problems;
 - d) Description of the key activities to be undertaken in the succeeding three months following the reporting period.
4. The Sub-Grantee will submit, within a period of 30 calendar days after the conclusion of the activities covered by this Sub-Grant, a final project report and copies of the deliverables under the agreement.
5. The Sub-Grantee will submit, on quarterly basis, a report on the amount of foreign taxes charged by a foreign government on commodity purchase transaction valued at \$500.00 or more financed with U.S. foreign assistance funds pursuant to the USAID mandatory ADS 300 Reference entitled "Guidance on Reporting Requirements Pertaining to Section 579 of the FY 2003 Foreign Operations Act – Prohibition on Taxation of United States Assistance". Attachment IV provides reporting guidelines and format.

ARTICLE V
OTHER UNDERTAKINGS AND OBLIGATIONS OF PACT TANZANIA
AND THE SUB-GRANTEE

1. UNDERTAKING AND OBLIGATIONS OF PACT TANZANIA
 - a) Pact Tanzania shall communicate to the Sub-Grantee, in writing and in a timely manner, any facts and circumstances which might warrant a revision in any of the terms and conditions of this Sub-Grant. Such communications may include, but not be limited to, changes in the Cooperative Agreement relationship between Pact Tanzania and USAID which affect Pact Tanzania's ability to meet its obligations under this Sub-Grant.
 - b) The Sub-Grantee accepts and agrees to the following financial management and control procedures:
 - (i) Maintaining separate accounting of all operations and transactions related to the Sub-Grantee funds received, and using them in accordance with generally-accepted and applicable accounting and financial principles and rules.
 - (ii) Maintaining accounting books and records that properly record and support disbursement of Sub-Grant funds in accordance with the approved budget.
 - (iii) Providing to Pact Tanzania, upon reasonable notice, access to the books and records of the Sub-Grantee (including, if Pact Tanzania determines necessary, on-site visits to the Sub-Grantee's office), to verify representations in the financial reports submitted by the Sub-Grantee.
 - c) The Sub-Grantee undertakes to return to Pact Tanzania, at the conclusion of the project, all unused Sub-Grant funds as well as amounts determined by Pact Tanzania as not allowable expenses under the terms and conditions of this Sub-Grant.
 - d) In the event that the Sub-Grant deposits Sub-Grant funds received from Pact Tanzania into a bank account that yields interest, the amount of such interest will be credited against Sub-Grant disbursements to be made by Pact Tanzania. Interest earned in excess of US 250 per year shall, at the conclusion of the effective period of the Sub-Grant, be paid back to Pact Tanzania.
 - e) The Sub-Grant shall keep accounting records, reports and all the documentation related to the activity covered by this Sub-Grant for a period of three years after the delivery of the project's last Financial Report. Retention of these records is considered appropriate in the event of any post-Agreement audit of or by Pact Tanzania or USAID.
 - f) The Sub-Grantee undertakes to mention in all materials produced within the scope of this Sub-Grant (brochures, pamphlets, posters, reports, etc) that the source of Sub-Agreement funds was USAID, through Pact

Tanzania were used. Unless agreed otherwise, the format for this acknowledgement should be essentially as follows: “This [name or description of document] was produced with financing from USAID through a Pact Tanzania Sub-Grant. The opinions and positions expressed by the authors do not necessarily reflect those of USAID and/or of Pact Tanzania.

ARTICLE VI CORRECTIONS AND MODIFICATIONS

1. Modifications to this Sub-Grant (e.g. Sub-Grant activities, budget, project duration, etc.) shall be effective only through written agreement signed both by Pact Tanzania and the Sub-Grantee, with USAID concurrence presented to Pact Tanzania in advance for written approval prior to any action. The Sub-Grantee may request a modification in writing to Pact Tanzania, stating the reasons and likely impact on Sub-Grant activities and/or budget. Pact Tanzania reserves the right to deny a requested modification if in the opinion of Pact Tanzania the modification would be inconsistent with the objectives of this Sub-Grant and/or would result in costs in excess of those approved by this Sub-Grant.

ARTICLE VII TERMINATION OF THE SUB-GRANT

1. The Sub-Grantee may terminate the Sub-grant on the grounds of inability to proceed for reasons beyond the control of the Sub-Grantee provided that it gives sixty days' prior written notification to Pact Tanzania, advising as to the reasons why termination is sought. In the event that the sub-Grantee exercises this option to terminate,
 - a) the agreed budget shall be deemed in suspension as of the date of notification of intention to terminate,
 - b) a close-out budget will be negotiated between the Sub-Grantee and Pact Tanzania,
 - c) the Sub-Grantee shall refrain from incurring any additional obligations using Sub-Grant funds until a close-out budget is negotiated and agreed with Pact Tanzania, and
 - d) The Sub-Grantee shall return to Pact Tanzania any Sub-Grant funds in excess of the amount required for the agreed upon close out.
2. Pact Tanzania may suspend or terminate this Sub-Grant should it conclude that the Sub-Grantee has not complied with the terms of the Sub-grant. In the event that Pact Tanzania chooses to exercise this option, Pact Tanzania shall first report its intention to the Sub-Grantee in writing, and will provide the Sub-Grantee with a reasonable period (of no less than two calendar

weeks) to respond to Pact Tanzania and a reasonable period thereafter (of no less than two calendar weeks) to take corrective action. If Pact Tanzania determines that the proposed corrective action is inadequate, Pact Tanzania may declare the Sub-Grant suspended/terminated, and will communicate this determination and the effective date in writing to the Sub-Grantee. Pact Tanzania may thereafter take any actions available under law to recover unspent Sub-Grant funds.

ARTICLE VIII
EFFECTIVE DATE

This Sub-Grant shall become effective after signature by Pact Tanzania, the Sub-Grantee, and concurrence by USAID/Tanzania and the USAID Regional Grant Officer. The effective date of this agreement is _____.

Declaration

No funds supplied under this grant shall be used for assistance (including commodities, training and technical assistance) to any law enforcement agency without the written agreement of Pact Tanzania.

In accepting this agreement, the Sub-grantee certifies that it is presently fully legal and permitted to operate as an NGO under applicable laws of Tanzania.

Pact Tanzania reserves the right to measure the impact of the project after the completion of the sub-grant period. The CSO will provide the necessary assistance for this.

The parties hereto hereby, acknowledging the forgoing articles and undertaking to abide by them, have executed this agreement as of the dates indicated below:

For	_____	For	Pact Tanzania
Signature	_____	Signature	_____
Name	_____	Name	_____
Position	_____	Position	_____
Date	_____	Date	_____

Appendix V: Cash Request Form

CASH REQUEST FORM

1. Recipient Name: _____ 2. Request # _____

Recipient Address: _____

3. Contract/
Sub-agreement # _____ 4. Date of request _____

5. Total fund on hand _____ 6. Amount Requested: _____

7. If funds are to be sent by wire transfer, provide bank information below:

Bank Account Number; _____

Receiving Bank Name: _____

Receiving Bank Address: _____

8. Special Instructions: _____

Approved by: _____

Name: _____

Title: _____

FOR PACT USE ONLY

DATE RECEIVED _____

DATE FUNDS REQUESTED _____

AMOUNT REQUESTED _____

DATE OF WIRE TRANSFER _____

AMOUNT TRANSFERRED _____

SPECIAL INSTRUCTIONS _____

Appendix VI:

Monthly Financial Expense Report

Period Covered From _____ to _____

NGO Name and Address _____

Sub-Grant No. _____

Budget line Item	1 Authorized Budget			2 (a) Current expense			3 (b) Prior Period			4 = (2+3) Cumulative Expense			5 = (1-4) Remaining Balance		
	Pact	NGO	Total	Pact	NGO	Total	Pact	NGO	Total	Pact	NGO	Total	Pact	NGO	Total

Signature of authorised certifying official _____

Name and Title _____

The undersigned hereby certifies that the financial report has been prepared from the books and records of the sub-grantee in accordance with the terms and Conditions of the sub-agreement. To the best of our Knowledge and belief, the information provided is correct and accurate, the work reflect by the costs above have been performed, consistent with the requirements of the sub agreement. Appropriate refund to Pact will be made promptly up on request in the event of disallowance of costs not reimbursed under the terms of the sub agreement.



Appendix VII: USAID 22CFR Part 226

1.1 USAID 22 CFR PART 226

Administration of Assistance Awards to U.S. Non-Governmental Organizations

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT
22 CFR Part 226

Administration of Assistance Awards to U.S. Non-Governmental
Organizations

AGENCY: United States Agency for International Development (USAID).
ACTION: Interim final rule.

SUMMARY: This interim final rule adds a new part 22 CFR 226 which implements Office of Management and Budget (OMB) Circular A-110 establishing uniform administrative requirements for Federal grants and agreements awarded to institutions of higher education, hospitals, and other non-profit organizations. In keeping with existing USAID policy, this rule is also being made applicable to commercial organizations.

EFFECTIVE DATE: This rule is effective February 21, 1995.
Comments must be submitted before March 20, 1995.

FOR FURTHER INFORMATION CONTACT: Diana Joan Esposito, Office of Procurement, Procurement Policy and Evaluation (M/OP/P), USAID, SA-14 Rm.1600I, 320 21st Street, Washington DC 20523. Telephone 202 712-4163, Fax 703 875-1243.

SUPPLEMENTARY INFORMATION: On August 27, 1992, OMB published a proposed version of Circular A-110 (57 FR 39018). Over 200 comments were received from Federal agencies, non-profit organizations, professional organizations, and others. OMB addressed these comments in the final version of the Circular published November 29, 1993.

The revised Circular was developed by an interagency task force for government-wide use in a common rule format to facilitate regulatory adoption by executive departments and agencies. This interim final rule essentially adopts the Government-wide common rule format and provisions of the Circular with some minor changes to the Circular to add clarity and some agency-specific technical changes.

I. The Circular provides agencies with a certain discretion in implementing its provisions. USAID has exercised this discretion as follows:

USAID has decided to include commercial organizations as recipients and subrecipients covered by this rule and not to include foreign or international organizations. The definitions have been revised to reflect this.

The Circular states in ____22(c) that advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer. Because USAID frequently issues agency letters of credit for advances, a USAID letter of credit is also referenced in 226.22.

In Section 226.23(b), USAID has determined that unrecovered indirect costs may be included as part of cost sharing without additional approval from USAID.

Section 226.24(d) is amended to reflect USAID's policy determination that commercial organizations may not use the additive formula for program income.

In Section 226.24(f), USAID provides that costs incident to the generation of program income may be deducted from gross income when they are in keeping with the applicable cost principles.

II. 22 CFR Part 226 includes the following additions and changes to A-110 that have been submitted for OMB review and approval as deviations:

Section 226.22(g) is revised to provide that it does not apply to funds earned in foreign currency.

Section 226.22(i) is revised to state that separate depository accounts may be required by the terms of an award where specifically required under USAID's guidance covering endowment funds.

Section 226.22(l) is revised to provide that USAID may authorize recipients to retain all interest earned in accordance with USAID's statutory authority.

Sections 226.32 and 226.34 are revised to allow for USAID to vest title in an entity other than the recipient (e.g., so that the recipient country government may take title when the award is funded under a bilateral project agreement between USAID and a developing country).

Section 226.44(b) is expanded to provide that certain procurement information be sent to the USAID Office of Small Disadvantaged Business Utilization in accordance with established USAID practice and Section 602 of the Foreign Assistance Act of 1961, as amended.

Section 226.61 is expanded to incorporate USAID's existing authority to suspend or terminate an award where continuation would be in violation of applicable law or otherwise not be in the national interest of the United States.

Subpart G contains additional procurement eligibility requirements based on USAID's statutory and regulatory requirements. The coverage on eligibility of goods and services, local cost financing, air transportation, and ocean shipment is currently reserved.

III. Editorial changes designed to help clarify the provisions for USAID recipients and program/agreement officers include the following:

Section 226.2 adds definitions of "Agreement Officer" and "USAID."

Section 226.15 includes USAID's existing implementation of the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205).

Subpart E contains additional requirements for awards to commercial (for-profit) organizations.

Subpart F contains coverage of USAID's process for disputes with recipients.

Appendix A contract provisions have been altered to indicate applicability to activities conducted in or outside the United States. Also in Appendix A, the provision on the Byrd Anti-Lobbying Amendment corrects the applicability of the provision which was inadvertently misstated in the Circular. The provision applies to awards exceeding \$100,000 rather than awards of \$100,000 or more.

Waiver of Proposed Rulemaking: It is the practice of USAID to offer interested parties the opportunity to comment on proposed regulations. However, USAID has determined that further public comment on the common rule portion is unnecessary because the substance of the rule received public comment when published by OMB. Given the mandatory nature of the bulk of the text, USAID has determined that issuance of a Notice of Proposed Rulemaking for the modifications would be impractical, unnecessary and contrary to the public interest since the changes are relatively few and most reflect existing policies and practices. Public comments on USAID-specific implementation of this interim final rule are welcome.

Executive Order 12866: USAID has determined that this is not a significant rule in accordance with E.O. 12866.

Regulatory Flexibility Act: This is a mandatory, Government-wide uniform rule. The limited USAID-specific provisions in the rule have been reviewed in accordance with the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. Chapter 6). USAID has determined that these portions of the rule would not have a significant economic impact on a substantial number of small entities and, therefore, a Regulatory Flexibility Analysis is not required.

The information collection requirements contained in this rule have been previously cleared by OMB.

List of Subjects in 22 CFR Part 226

Accounting, Administrative practice and procedures, Grant programs, Grant administration, Reporting and recordkeeping requirements.

Accordingly, Part 226 of Title 22 of the Code of Federal Regulations is added, consisting of Subparts A through G and Appendix A, to read as follows:

PART 226 -- ADMINISTRATION OF ASSISTANCE AWARDS TO U.S. NON-GOVERNMENTAL ORGANIZATIONS

SUBPART A - GENERAL

Sec

- 226.1 Purpose and applicability.
- 226.2 Definitions.
- 226.3 Effect on other issuances.
- 226.4 Deviations.
- 226.5 Subawards.

SUBPART B - PRE-AWARD REQUIREMENTS

- 226.10 Purpose.
- 226.11 Pre-award policies.
- 226.12 Forms for applying for Federal assistance.
- 226.13 Debarment and suspension.
- 226.14 Special award conditions.
- 226.15 Metric system of measurement.
- 226.16 Resource Conservation and Recovery Act.
- 226.17 Certifications and representations.

SUBPART C - POST-AWARD REQUIREMENTS

Financial and Program Management

- 226.20 Purpose of financial and program management.
- 226.21 Standards for financial management systems.
- 226.22 Payment.
- 226.23 Cost sharing or matching.
- 226.24 Program income.
- 226.25 Revision of budget and program plans.

- 226.26 Non-Federal audits.
- 226.27 Allowable costs.
- 226.28 Period of availability of funds.

Property Standards

- 226.30 Purpose of property standards. 226.31 Insurance coverage.
- 226.32 Real property.
- 226.33 Federally-owned and exempt property.
- 226.34 Equipment.
- 226.35 Supplies and other expendable property.
- 226.36 Intangible property.
- 226.37 Property trust relationship.

Procurement Standards

- 226.40 Purpose of procurement standards.
- 226.41 Recipient responsibilities.
- 226.42 Codes of conduct.
- 226.43 Competition.
- 226.44 Procurement procedures.
- 226.45 Cost and price analysis.
- 226.46 Procurement records.
- 226.47 Contract administration.
- 226.48 Contract provisions.
- 226.49 USAID-Specific Procurement Requirements.

Reports and Records

- 226.50 Purpose of reports and records.
- 226.51 Monitoring and reporting program performance.
- 226.52 Financial reporting.
- 226.53 Retention and access requirements for records.

Suspension, Termination and Enforcement

- 226.60 Purpose of termination and enforcement.
- 226.61 Suspension and Termination.
- 226.62 Enforcement.

SUBPART D - AFTER-THE-AWARD REQUIREMENTS

- 226.70 Purpose.
- 226.71 Closeout procedures.
- 226.72 Subsequent adjustments and continuing responsibilities.
- 226.73 Collection of amounts due.

SUBPART E - SPECIAL PROVISIONS FOR AWARDS TO COMMERCIAL ORGANIZATIONS

- 226.80 Scope of subpart.
- 226.81 Prohibition against profit.
- 226.82 Program income.

SUBPART F - MISCELLANEOUS

- 226.90 Disputes.

SUBPART G - USAID-SPECIFIC REQUIREMENTS

- 226.1001 Eligibility Rules for Goods and Services
[RESERVED]
- 226.1002 Local Cost Financing
[RESERVED]
- 226.1003 Air Transportation
[RESERVED]

226.1004 Ocean Shipment of Goods
[RESERVED]

APPENDIX A TO PART 226 - CONTRACT PROVISIONS

AUTHORITY: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SUBPART A - GENERAL

226.1 Purpose and applicability.

Except as otherwise authorized by statute, this part establishes uniform administrative requirements for grants and cooperative agreements awarded by USAID to U.S. institutions of higher education, hospitals, and other non-profit organizations, and to U.S. commercial organizations; and to subawards thereunder. USAID shall not impose additional or inconsistent requirements, except as provided in Sections 226.4, and 226.14, or unless specifically required by Federal statute or executive order. Non-profit and commercial organizations that implement Federal programs for the States are also subject to State requirements.

226.2 Definitions.

Accrued expenditures means the charges incurred by the recipient during a given period requiring the provision of funds for:

- (1) Goods and other tangible property received;
- (2) Services performed by employees, contractors, subrecipients, and other payees; and,
- (3) Other amounts becoming owed under programs for which no current services or performance is required.

Accrued income means the sum of:

- (1) Earnings during a given period from services performed by the recipient, and goods and other tangible property delivered to purchasers, and
- (2) Amounts becoming owed to the recipient for which no current services or performance is required by the recipient.

Acquisition cost of equipment means the net invoice price of the equipment, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges, such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the recipient's regular accounting practices.

Advance means a payment made by Treasury check or other appropriate payment mechanism to a recipient upon its request either before outlays are made by the recipient or through the use of predetermined payment schedules.

Agreement Officer means a person with the authority to enter into, administer, terminate and/or closeout assistance agreements subject to this part, and make related determinations and findings on behalf of USAID. An Agreement Officer can only act within the scope of a duly authorized warrant or other valid delegation of authority. The term "Agreement Officer" includes persons warranted as "Grant Officers." It also includes certain authorized representatives of the Agreement Officer acting within the limits of their authority as delegated by the Agreement Officer.

Award means financial assistance that provides support or stimulation to accomplish a public purpose. Awards include grants, cooperative agreements and other agreements in the form of money or property in lieu of money, by the Federal Government to an eligible recipient. The term does not include: technical assistance, which provides services instead of money; other assistance in the form of loans, loan guarantees, interest subsidies, or insurance; direct payments of any kind to individuals; and, contracts which are required to be entered into and administered under procurement laws and regulations.

Cash contributions means the recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.

Closeout means the process by which the Agreement Officer determines that all applicable administrative actions and all required work of the award have been completed by the recipient and USAID.

Contract means a procurement contract under an award or subaward, and a procurement subcontract under a recipient's or subrecipient's contract.

Cost sharing or matching means that portion of project or program costs not borne by the Federal Government.

Date of completion means the date on which all work under an award is completed or the date on the award document, or any supplement or amendment thereto, on which USAID sponsorship ends.

Disallowed costs means those charges to an award that the USAID Agreement Officer determines to be unallowable, in accordance with the applicable Federal cost principles or other terms and conditions contained in the award.

Equipment means tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of \$5000 or more per unit. However, consistent with recipient policy, lower limits may be established.

Excess property means property under the control of USAID that, as determined by the head of the Agency, is no longer required for its needs or the discharge of its responsibilities.

Exempt property means tangible personal property acquired in whole or in part with Federal funds, where the Federal awarding agency has statutory authority to vest title in the recipient without further obligation to the Federal Government. An example of exempt property authority is contained in the Federal Grant and Cooperative Agreement Act (31U.S.C. 6306), for property acquired under an award to conduct basic or applied research by a non-profit institution of higher education or non-profit organization whose principal purpose is conducting scientific research.

Federal awarding agency means the Federal agency that provides an award to the recipient.

Federal funds authorized means the total amount of Federal funds obligated by the Federal Government for use by the recipient. This amount may include any authorized carryover of unobligated funds from prior funding periods when permitted by agency regulations or agency implementing instructions.

Federal share of real property, equipment, or supplies means that percentage of the property's acquisition costs and any improvement expenditures paid with Federal funds.

Funding period means the period of time when Federal funding is available for obligation by the recipient.

Intangible property and debt instruments means, but is not limited to, trademarks, copyrights, patents and patent applications and such property as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership, whether considered tangible or intangible.

Obligations means the amounts of orders placed, contracts and grants awarded, services received and similar transactions during a given period that require payment by the recipient during the same or a future period.

Outlays or expenditures means charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense charged, the value of third party in-kind contributions applied and the amount of cash advances and payments made to subrecipients. For reports prepared on an accrual basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, subrecipients and other payees and other amounts becoming owed under programs for which no current services or performance are required.

Personal property means property of any kind except real property. It may be tangible, having physical existence, or intangible, having no physical existence, such as copyrights, patents, or securities.

Prior approval means written approval by an authorized official evidencing prior consent.

Program income means gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the award (see exclusions in paragraphs 226.24 (e) and (h)). Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights, and interest on loans made with award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in USAID regulations or the terms and conditions of the award, program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them.

Project costs means all allowable costs, as set forth in the applicable Federal cost principles, incurred by a recipient and the value of the contributions made by third parties in accomplishing the objectives of the award during the project period.

Project period means the period established in the award document during which Federal sponsorship begins and ends.

Property means, unless otherwise stated, real property, equipment, supplies, intangible property and debt instruments.

Real property means land, including land improvements, structures and appurtenances thereto, but excludes movable machinery and equipment.

Recipient means an organization receiving a grant or cooperative agreement directly from USAID to carry out a project or program. The term includes the following types of U.S. organizations: public and private institutions of higher education; public and private hospitals; quasi-public and private

non-profit organizations such as, but not limited to, community action agencies, research institutes, educational associations, and health centers; and commercial organizations. The term does not include government-owned contractor-operated facilities or research centers providing continued support for mission-oriented, large-scale programs that are government-owned or controlled, or are designated as federally-funded research and development centers.

Research and development means all research activities, both basic and applied, and all development activities that are supported at universities, colleges, and other non-profit institutions. "Research" is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. "Development" is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

Small awards means a grant or cooperative agreement not exceeding the small purchase threshold fixed at 41 U.S.C. 403(11).

Subaward means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a recipient to an eligible subrecipient or by a subrecipient to a lower tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include procurement of goods and services nor does it include any form of assistance which is excluded from the definition of "award" in this section.

Subrecipient means the legal entity to which a subaward is made and which is accountable to the recipient for the use of the funds provided.

Supplies means all personal property excluding equipment, intangible property, and debt instruments as defined in this section, and inventions of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement ("subject inventions"), as defined in 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements."

Suspension means an action by USAID that temporarily withdraws Federal sponsorship under an award, pending corrective action by the recipient or pending a decision to terminate the award. Suspension of an award is a separate action from suspension under USAID regulations implementing E.O.s 12549 and 12689, "Debarment and Suspension." See 22 CFR Part 208.

Termination means the cancellation of USAID sponsorship, in whole or in part, under an agreement at any time prior to the date of completion.

Third party in-kind contributions means the value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value

of goods and services directly benefiting and specifically identifiable to the project or program.

Unliquidated obligations, for financial reports prepared on a cash basis, means the amount of obligations incurred by the recipient that have not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the recipient for which an outlay has not been recorded.

Unobligated balance means the portion of the funds authorized by USAID that has not been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative funds authorized.

Unrecovered indirect cost means the difference between the amount awarded and the amount which could have been awarded under the recipient's approved negotiated indirect cost rate.

USAID means the United States Agency for International Development.

Working capital advance means a procedure whereby funds are advanced to the recipient to cover its estimated disbursement needs for a given initial period.

226.3 Effect on other issuances.

For awards subject to this part, all administrative requirements of codified program regulations, program manuals, handbooks and other nonregulatory materials which are inconsistent with the requirements of this part shall be superseded, except to the extent they are required by statute, or authorized in accordance with the deviations provision in Section 226.4.

226.4 Deviations.

The Office of Management and Budget (OMB) may grant exceptions for classes of grants or recipients subject to the requirements of this part when exceptions are not prohibited by statute. However, in the interest of maximum uniformity, exceptions from the requirements of this part shall be permitted only in unusual circumstances. USAID may apply more restrictive requirements to a class of recipients when approved by OMB. USAID may apply less restrictive requirements when awarding small awards, except for those requirements which are statutory. Exceptions on a case-by-case basis may also be made by the USAID Deputy Assistant Administrator for Management.

226.5 Subawards.

Unless sections of this part specifically exclude subrecipients from coverage, the provisions of this part shall be applied to subrecipients if such subrecipients are organizations which, if receiving awards directly from USAID, would fall within the definition of recipients. State and local government subrecipients are subject to the provisions of regulations implementing the grants management common rule, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," as amended.

SUBPART B - PRE-AWARD REQUIREMENTS

226.10 Purpose.

Sections 226.11 through 226.17 prescribe forms and instructions and other pre-award matters to be used in applying for USAID

awards.

226.11 Pre-award policies.

(a) Use of Grants and Cooperative Agreements, and Contracts. In each instance USAID shall decide on the appropriate award instrument (i.e., grant cooperative agreement or contract). The Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301-08) governs the use of grants, cooperative agreements and contracts. A grant or cooperative agreement shall be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute. The statutory criterion for choosing between grants and cooperative agreements is that for the latter, "substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement." Contracts shall be used when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal Government.

(b) Public Notice and Priority Setting. USAID shall notify the public of its intended funding priorities for discretionary grant programs, unless funding priorities are established by Federal statute.

226.12 Forms for applying for Federal assistance.

(a) USAID shall comply with the applicable report clearance requirements of 5 CFR part 1320, "Controlling Paperwork Burdens on the Public," with regard to all forms used in place of or as a supplement to the Standard Form 424 (SF-424) series.

(b) Applicants shall use the SF-424 series or those forms and instructions prescribed by USAID.

(c) For Federal programs covered by E.O. 12372, "Intergovernmental Review of Federal Programs," the applicant shall complete the appropriate sections of the SF-424 (Application for Federal Assistance) indicating whether the application was subject to review by the State Single Point of Contact (SPOC). The name and address of the SPOC for a particular State can be obtained from the Federal awarding agency or the Catalog of Federal Domestic Assistance. The SPOC shall advise the applicant whether the program for which application is made has been selected by that State for review.

(d) Federal awarding agencies that do not use the SF-424 form should indicate whether the application is subject to review by the State under E.O. 12372.

226.13 Debarment and suspension.

USAID and recipients shall comply with the nonprocurement debarment and suspension common rule implementing E.O.s 12549 and 12689, "Debarment and Suspension," 22 CFR Part 208. This common rule restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

226.14 Special award conditions.

If an applicant or recipient: has a history of poor performance, is not financially stable, has a management system that does not meet the standards prescribed in this part, has not conformed to the terms and conditions of a previous award, or is not otherwise

responsible, the USAID Agreement Officer may impose additional requirements as needed, provided that such applicant or recipient is notified in writing as to: the nature of the additional requirements, the reason why the additional requirements are being imposed, the nature of the corrective action needed, the time allowed for completing the corrective actions, and the method for requesting reconsideration of the additional requirements imposed. Any special conditions will be promptly removed once the conditions that prompted them have been corrected.

226.15 Metric system of measurement.

(a) The Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205) declares that the metric system is the preferred measurement system for U.S. trade and commerce.

(b) Wherever measurements are required or authorized, they shall be made, computed, and recorded in metric system units of measurement, unless otherwise authorized by the agreement officer in writing when it has been found that such usage is impractical or is likely to cause U.S. firms to experience significant inefficiencies or the loss of markets. Where the metric system is not the predominant standard for a particular application, measurements may be expressed in both the metric and the traditional equivalent units, provided the metric units are listed first.

226.16 Resource Conservation and Recovery Act.

Under the Act, any U.S. State agency or agency of a political subdivision of a State which is using appropriated Federal funds must comply with Section 6002. Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency (EPA) (40 CFR parts 247-254). Accordingly, State and local institutions of higher education and hospitals that receive direct Federal awards or other Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to the EPA guidelines.

226.17 Certifications and representations.

Unless prohibited by statute or codified regulation, USAID may at some future date, allow recipients to submit certifications and representations required by statute, executive order, or regulation on an annual basis, if the recipients have ongoing and continuing relationships with the agency. Annual certifications and representations shall be signed by responsible officials with the authority to ensure recipients' compliance with the pertinent requirements.

SUBPART C - POST-AWARD REQUIREMENTS

Financial and Program Management

226.20 Purpose of financial and program management.

Sections 226.21 through 226.28 prescribe standards for financial management systems, methods for making payments and rules for:

satisfying cost sharing and matching requirements, accounting for program income, budget revision approvals, making audits, determining allowability of costs and establishing funds availability.

226.21 Standards for financial management systems.

(a) Recipients shall relate financial data to performance data and develop unit cost information whenever practical.

(b) Recipients' financial management systems shall provide for the following.

(1) Accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in Section 226.52. While USAID requires reporting on an accrual basis, if the recipient maintains its records on other than an accrual basis, the recipient shall not be required to establish an accrual accounting system. These recipients may develop such accrual data for their reports on the basis of an analysis of the documentation on hand.

(2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to all Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.

(3) Effective control over and accountability for all funds, property and other assets. Recipients shall adequately safeguard all such assets and assure they are used solely for authorized purposes.

(4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.

(5) Written procedures to minimize the time elapsing between the transfer of funds to the recipient from the U.S. Treasury and the issuance or redemption of checks, warrants or payments by other means for program purposes by the recipient. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR part 205, "Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs."

(6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.

(7) Accounting records, including cost accounting records, that are supported by source documentation.

(c) Where the Federal Government guarantees or insures the repayment of money borrowed by the recipient, USAID, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the Federal Government.

(d) USAID may require adequate fidelity bond coverage where the recipient lacks sufficient coverage to protect the Federal Government's interest.

(e) Where bonds are required in the situations described above,

the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, "Surety Companies Doing Business with the United States."

226.22 Payment.

(a) Payment methods shall minimize the time elapsing between the transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payment by other means by the recipients. Payment methods of State agencies or instrumentalities shall be consistent with Treasury-State CMIA agreements or default procedures codified at 31 CFR part 205.

(b)(1) Recipients will be paid in advance, provided they maintain or demonstrate the willingness to maintain:

(i) written procedures that minimize the time elapsing between the transfer of funds and disbursement by the recipient, and

(ii) financial management systems that meet the standards for fund control and accountability as established in Section

226.21.

(b)(2) Cash advances to a recipient organization shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program or project costs and the proportionate share of any allowable indirect costs.

(c) Whenever possible, advances will be consolidated to cover anticipated cash needs for all awards made by USAID to the recipient.

(1) Advance payment mechanisms include, but are not limited to, USAID Letter of Credit, Treasury check and electronic funds transfer.

(2) Advance payment mechanisms are subject to 31 CFR part 205.

(3) Recipients will be authorized to submit requests for advances and reimbursements at least monthly when electronic fund transfers are not used.

(d) Requests for Treasury check advance payment shall be submitted on SF-270, "Request for Advance or Reimbursement," or other forms as may be authorized by OMB. This form is not to be used when Treasury check advance payments are made to the recipient automatically through the use of a predetermined payment schedule or if precluded by special USAID instructions for electronic funds transfer.

(e) Reimbursement is the preferred method when the requirements in paragraph (b) of this section cannot be met. USAID may also use this method on any construction agreement, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal assistance constitutes a minor portion of the project.

(1) When the reimbursement method is used, USAID shall make payment within 30 days after receipt of the billing, unless the billing is improper.

(2) Recipients are authorized to submit a request for reimbursement at least monthly when electronic funds transfers are not used.

(f) If a recipient cannot meet the criteria for advance payments and USAID has determined that reimbursement is not

feasible because the recipient lacks sufficient working capital, the USAID Agreement Officer may provide cash on a working capital advance basis. Under this procedure, USAID shall advance cash to the recipient to cover its estimated disbursement needs for an initial period generally geared to the recipient's disbursing cycle, normally 30 days. Thereafter, USAID shall reimburse the recipient for its actual cash disbursements. The working capital advance method of payment will not be used for recipients unwilling or unable to provide timely advances to their subrecipients to meet the subrecipients' actual cash disbursements.

(g) To the extent available, recipients shall disburse funds available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments. This paragraph is not applicable to such earnings which are generated as foreign currencies.

(h) Unless otherwise required by statute, USAID will not withhold payments for proper charges made by recipients at any time during the project period unless:

(1) A recipient has failed to comply with the project objectives, the terms and conditions of the award, or Federal reporting requirements, or

(2) The recipient or subrecipient is delinquent in a debt to the United States as defined in OMB Circular A-129, "Managing Federal Credit Programs." Under such conditions, USAID may, upon reasonable notice, inform the recipient that payments shall not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated.

(i) Standards governing the use of banks and other institutions as depositories of funds advanced under awards are as follows.

(1) Except for situations described in Section (i)(2) of this section, or as otherwise provided in USAID regulations or implementing guidance governing endowment funds, USAID does not require separate depository accounts for funds provided to a recipient or establish any eligibility requirements for depositories for funds provided to a recipient. However, recipients must be able to account for the receipt, obligation and expenditure of funds.

(2) Advances of Federal funds shall be deposited and maintained in insured accounts whenever possible.

(j) Consistent with the national goal of expanding the opportunities for women-owned and minority-owned business enterprises, recipients are encouraged to use women-owned and minority-owned banks (a bank which is owned at least 50 percent by women or minority group members).

(k) Recipients shall maintain advances of Federal funds in interest bearing accounts, unless:

(1) The recipient receives less than \$120,000 in Federal awards per year,

(2) The best reasonably available interest bearing account would not be expected to earn interest in excess of \$250 per year on Federal cash balances, or

(3) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

(l) Except as otherwise provided in the terms and conditions of the award in accordance with USAID regulations or other implementing guidance, for those entities where CMIA and its implementing regulations do not apply, interest earned on Federal advances deposited in interest bearing accounts shall be remitted annually to Department of Health and Human Services, Payment Management System, Rockville, MD 20852. Interest amounts up to \$250 per year may be retained by the recipient for administrative expense. State universities and hospitals shall comply with CMIA, as it pertains to interest. If an entity subject to CMIA uses its own funds to pay pre-award costs for discretionary awards without prior written approval from the Federal awarding agency, it waives its right to recover the interest under CMIA.

(m) Except as noted elsewhere in this part, only the following forms shall be authorized for the recipients in requesting advances and reimbursements. USAID shall not require more than an original and two copies of these forms.

(1) The SF-270, Request for Advance or Reimbursement, is the standard form for all nonconstruction programs when electronic funds transfer or predetermined advance methods are not used. USAID has the option of using this form for construction programs in lieu of the SF-271, "Outlay Report and Request for Reimbursement for Construction Programs."

(2) The SF-271, Outlay Report and Request for Reimbursement for Construction Programs, is the standard form to be used for requesting reimbursement for construction programs. However, USAID may substitute the SF-270 when it determines that it provides adequate information to meet Federal needs.

226.23 Cost sharing or matching.

(a) All contributions, including cash and third party in-kind, shall be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the following criteria.

(1) Are verifiable from the recipient's records.

(2) Are not included as contributions for any other federally-assisted project or program.

(3) Are necessary and reasonable for proper and efficient accomplishment of project or program objectives.

(4) Are allowable under the applicable cost principles.

(5) Are not paid by the Federal Government under another award, except where authorized by Federal statute to be used for cost sharing or matching.

(6) Are provided for in the approved budget.

(7) Conform to other provisions of this part, as applicable.

(b) Unrecovered indirect costs may be included as part of cost sharing or matching.

(c) Values for recipient contributions of services and property shall be established in accordance with the applicable cost principles. If USAID authorizes recipients to donate buildings or land for construction/facilities acquisition projects or long-term use, the value of the donated property for cost sharing or matching shall be the lesser of:

(1) The certified value of the remaining life of the property recorded in the recipient's accounting records at the time of donation, or

(2) The current fair market value. However, when there is sufficient justification, the USAID Agreement Officer may approve the use of the current fair market value of the donated property, even if it exceeds the certified value at the time of donation to the project.

(d) Volunteer services furnished by professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for volunteer services shall be consistent with those paid for similar work in the recipient's organization. In those instances in which the required skills are not found in the recipient organization, rates shall be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.

(e) When an employer other than the recipient furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (plus an amount of fringe benefits that are reasonable, allowable, and allocable, but exclusive of overhead costs), provided these services are in the same skill for which the employee is normally paid.

(f) Donated supplies may include such items as expendable equipment, office supplies, laboratory supplies or workshop and classroom supplies. Value assessed to donated supplies included in the cost sharing or matching share shall be reasonable and shall not exceed the fair market value of the property at the time of the donation.

(g) The method used for determining cost sharing or matching for donated equipment, buildings and land for which title passes to the recipient may differ according to the purpose of the award, if:

(1) If the purpose of the award is to assist the recipient in the acquisition of equipment, buildings or land, the total value of the donated property may be claimed as cost sharing or matching, or

(2) If the purpose of the award is to support activities that require the use of equipment, buildings or land, normally only depreciation or use charges for equipment and buildings may be made. However, the full value of equipment or other capital assets and fair rental charges for land may be allowed, provided that the USAID Agreement Officer has approved the charges.

(h) The value of donated property shall be determined in accordance with the usual accounting policies of the recipient, with the following qualifications.

(1) The value of donated land and buildings shall not exceed its fair market value at the time of donation to the recipient as established by an independent appraiser (e.g., certified real property appraiser or General Services Administration representative) and certified by a responsible official of the recipient.

(2) The value of donated equipment shall not exceed the fair market value of equipment of the same age and condition at the time of donation.

(3) The value of donated space shall not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned

building in the same locality.

(4) The value of loaned equipment shall not exceed its fair rental value.

(i) The following requirements pertain to the recipient's supporting records for in-kind contributions from third parties.

(1) Volunteer services shall be documented and, to the extent feasible, supported by the same methods used by the recipient for its own employees,

(2) The basis for determining the valuation for personal services, material, equipment, buildings and land shall be documented.

226.24 Program income.

(a) Recipients shall apply the standards set forth in this section to account for program income related to projects financed in whole or in part with Federal funds.

(b) Except as provided in paragraph (h) of this section, program income earned during the project period shall be retained by the recipient and, in accordance with USAID regulations, other implementing guidance, or the terms and conditions of the award, shall be used in one or more of the following ways:

(1) Added to funds committed by USAID and the recipient to the project or program, and used to further eligible project or program objectives.

(2) Used to finance the non-Federal share of the project or program.

(3) Deducted from the total project or program allowable cost in determining the net allowable costs on which the Federal share of costs is based.

(c) When the agreement authorizes the disposition of program income as described in paragraph (b)(1) or (b)(2) of this section, program income in excess of any limits stipulated shall be used in accordance with paragraph (b)(3) of this section.

(d) If the terms and conditions of the award do not specify how program income is to be used, paragraph (b)(3) of this section shall apply automatically to all projects or programs except research. For awards that support research, paragraph (b)(1) of this section shall apply automatically unless the terms and conditions of the award provide another alternative, or the recipient is subject to special award conditions, as indicated in Section 226.14. Recipients which are commercial organizations may not apply paragraph (b)(1) of this section, in accordance with Section 226.82 of this part.

(e) Unless the terms and conditions of the award provide otherwise, recipients shall have no obligation to the Federal Government regarding program income earned after the end of the project period.

(f) Costs incident to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the award and they comply with the cost principles applicable to the award funds.

(g) Proceeds from the sale of property shall be handled in accordance with the requirements of the Property Standards (See Sections 226.30 through 226.37).

(h) Unless the terms and condition of the award provide otherwise, recipients shall have no obligation to the Federal Government with respect to program income earned from license fees and royalties for copyrighted material, patents, patent

applications, trademarks, and inventions produced under an award. However, Patent and Trademark Amendments (35 U.S.C. 18) apply to inventions made under an experimental, developmental, or research award.

226.25 Revision of budget and program plans.

(a) The budget plan is the financial expression of the project or program as approved during the award process. It may include either the sum of the Federal and non-Federal shares, or only the Federal share, depending upon USAID requirements as reflected in the terms and conditions of the agreement. It shall be related to performance for program evaluation purposes whenever appropriate.

(b) Recipients are required to report deviations from budget and program plans, and request prior approvals for budget and program plan revisions, in accordance with this section.

(c) For nonconstruction awards, recipients shall request prior approvals from the USAID Agreement Officer for one or more of the following program or budget related reasons:

(1) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(2) Change in a key person specified in the application or award document.

(3) The absence for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(4) The need for additional Federal funding.

(5) The transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa.

(6) The inclusion, unless waived in the agreement by USAID, of costs that require prior approval in accordance with OMB Circular A-21, "Cost Principles for Institutions of Higher Education," OMB Circular A-122, "Cost Principles for Non-Profit Organizations," or 45 CFR part 74 Appendix E, "Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals," or 48 CFR part 31, "Contract Cost Principles and Procedures," as applicable.

(7) The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.

(8) Unless described in the application and funded in the approved budget of the award, the subaward, transfer or contracting out of any work under an award. This provision does not apply to the purchase of supplies, material, equipment or general support services.

(d) No other prior approval requirements for specific items may be imposed unless a deviation has been approved by OMB.

(e) USAID may waive cost-related and administrative prior written approvals required by this part and OMB Circulars A-21 and A-122, except for requirements listed in paragraphs (c)(1) and (c)(4) of this section. Such waivers may authorize recipients to do any one or more of the following: (1) Incur pre-award costs 90 calendar days prior to award or more than 90 calendar days with the prior approval of the USAID Agreement Officer. All pre-award costs are incurred at the recipient's risk (i.e., USAID is under no obligation to reimburse such costs if for any reason the recipient does not receive an award or if the award is less than anticipated and inadequate to cover such

costs).

(2) Initiate a one-time extension of the expiration date of the award of up to 12 months. For one-time extensions, the recipient must notify the USAID Agreement Officer in writing, with the supporting reasons and revised expiration date, at least 10 days before the expiration date specified in the award. This one-time extension may not be exercised merely for the purpose of using unobligated balances. The recipient may initiate a one-time extension unless one or more of the following conditions apply:

(i) The terms and conditions of award prohibit the extension.

(ii) The extension requires additional Federal funds.

(iii) The extension involves any change in the approved objectives or scope of the project.

(3) Carry forward unobligated balances to subsequent funding periods.

(4) Except for awards under Section 226.14 and Subpart E of this part, for awards that support research, unless USAID provides otherwise in the award or in its regulations or other implementing guidance, the prior approval requirements described in paragraphs (e)(1) through (3) of this section are automatically waived (i.e., recipients need not obtain such prior approvals) unless one of the conditions included in paragraph (e)(2) of this section applies.

(f) USAID may, at its option, restrict the transfer of funds among direct cost categories or programs, functions and activities for awards in which the Federal share of the project exceeds \$100,000 and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by the USAID Agreement Officer. USAID shall not permit a transfer that would cause any Federal appropriation or part thereof to be used for purposes other than those consistent with the original intent of the appropriation.

(g) All other changes to nonconstruction budgets, except for the changes described in paragraph (j) of this section, do not require prior approval.

(h) For construction awards, recipients shall request prior written approval promptly from the USAID Agreement Officer for budget revisions whenever:

(1) The revision results from changes in the scope or the objective of the project or program,

(2) The need arises for additional Federal funds to complete the project, or

(3) A revision is desired which involves specific costs for which prior written approval requirements may be imposed consistent with the applicable cost principles listed in Section 226.27.

(i) No other prior approval requirements for specific items may be imposed unless a deviation has been approved by OMB.

(j) When USAID makes an award that provides support for both construction and nonconstruction work, the USAID Agreement Officer may require the recipient to request prior approval before making any fund or budget transfers between the two types of work supported.

(k) For both construction and nonconstruction awards, recipients shall notify the USAID Agreement Officer in writing promptly whenever the amount of Federal authorized funds is expected to

exceed the needs of the recipient for the project period by more than \$5000 or five percent of the Federal award, whichever is greater. This notification shall not be required if an application for additional funding is submitted for a continuation award.

(l) When requesting approval for budget revisions, recipients shall use the budget forms that were used in the application unless the USAID Agreement Officer indicates a letter of request suffices.

(m) Within 30 calendar days from the date of receipt of the request for budget revisions, the USAID Agreement Officer shall review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, the USAID Agreement Officer shall inform the recipient in writing of the date when the recipient may expect the decision.

226.26 Non-Federal audits.

(a) Recipients and subrecipients shall be subject to the audit requirements contained in OMB Circular A-133, "Audits of Institutions of Higher Education and Other Non-Profit Institutions."

(b) State and local governments shall be subject to the audit requirements contained in the Single Audit Act (31 U.S.C. 7501-7) and Federal awarding agency regulations implementing OMB Circular A-128, "Audits of State and Local Governments."

(c) Hospitals not covered by the audit provisions of OMB Circular A-133 shall be subject to the audit requirements of USAID.

(d) Commercial organizations shall be subject to the audit requirements of USAID or the prime recipient as incorporated in the award document.

226.27 Allowable costs.

For each kind of recipient, there is a set of Federal principles for determining allowable costs. Allowability of costs shall be determined by the Agreement Officer in accordance with the cost principles applicable to the entity incurring the costs. Thus, allowability of costs incurred by State, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A-87, "Cost Principles for State and Local Governments." The allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of OMB Circular A-122, "Cost Principles for Non-Profit Organizations." The allowability of costs incurred by institutions of higher education is determined in accordance with the provisions of OMB Circular A-21, "Cost Principles for Educational Institutions." The allowability of costs incurred by hospitals is determined in accordance with the provisions of Appendix E of 45 CFR part 74, "Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals." The allowability of costs incurred by commercial organizations and those non-profit organizations listed in Attachment C to Circular A-122 is determined in accordance with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR part 31.

226.28 Period of availability of funds.

Where a funding period is specified, a recipient may charge to the award only allowable costs resulting from obligations incurred during the funding period and any pre-award costs authorized by the USAID Agreement Officer.

Property Standards

226.30 Purpose of property standards.

Sections 226.31 through 226.37 set forth uniform standards governing management and or disposition of property furnished by the Federal Government or whose cost was charged to a project supported by a Federal award. USAID shall not impose additional requirements unless specifically required by statute. The recipient may use its own property management standards and procedures provided it observes the provisions of Sections 226.31 through 226.37.

226.31 Insurance coverage.

Recipients shall, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired with Federal funds as provided to property owned by the recipient. Federally-owned property need not be insured unless required by the terms and conditions of the award.

226.32 Real property.

(a) Unless the agreement provides otherwise, title to real property shall vest in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the project as long as it is needed and shall not encumber the property without approval of the Agreement Officer.

(b) The recipient shall obtain written approval from the Agreement Officer for the use of real property in other federally-sponsored projects when the recipient determines that the property is no longer needed for the purpose of the original project. Use in other projects shall be limited to those under federally-sponsored projects (i.e., awards) or programs that have purposes consistent with those authorized for support by USAID.

(c) When the real property is no longer needed as provided in paragraphs (a) and (b), the recipient shall request disposition instructions from the Agreement Officer. The Agreement Officer will give one or more of the following disposition instructions:

(1) The recipient may be permitted to retain title without further obligation to the Federal Government after it compensates the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project.

(2) The recipient may be directed to sell the property under guidelines provided by USAID and pay the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the recipient is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(3) The recipient may be directed to transfer title to the property to the Federal Government or to an eligible third party

provided that, in such cases, the recipient shall be entitled to compensation for its attributable percentage of the current fair market value of the property.

226.33 Federally-owned and exempt property.

(a) Federally-owned property.

(1) Title to federally-owned property remains vested in the Federal Government. Recipients shall submit annually an inventory listing of federally-owned property in their custody to USAID. Upon completion of the award or when the property is no longer needed, the recipient shall report the property to USAID for further Federal agency utilization.

(2) If USAID has no further need for the property, it shall be declared excess and reported to the General Services Administration, unless USAID has statutory authority to dispose of the property by alternative methods (e.g., the authority provided by the Federal Technology Transfer Act (15 U.S.C. 3710 (I)) to donate research equipment to educational and non-profit organizations in accordance with E.O. 12821, "Improving Mathematics and Science Education in Support of the National Education Goals.") Appropriate instructions shall be issued to the recipient by USAID.

(b) Exempt property. When statutory authority exists, USAID has the option to vest title to property acquired with Federal funds in the recipient without further obligation to the Federal Government and under conditions USAID considers appropriate. Such property is "exempt property" (see definition in Section 226.2). Should USAID not establish conditions, title to exempt property upon acquisition shall vest in the recipient without further obligation to the Federal Government.

226.34 Equipment.

(a) Unless the agreement provides otherwise, title to equipment acquired by a recipient with Federal funds shall vest in the recipient, subject to conditions of this part.

(b) The recipient shall not use equipment acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute, for as long as the Federal Government retains an interest in the equipment.

(c) The recipient shall use the equipment in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds and shall not encumber the property without approval of USAID. When no longer needed for the original project or program, the recipient shall use the equipment in connection with its other federally-sponsored activities, in the following order of priority:

(1) Activities sponsored by USAID, then

(2) activities sponsored by other Federal agencies.

(d) During the time that equipment is used on the project or program for which it was acquired, the recipient shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the equipment was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by USAID; second preference shall be given to projects

or programs sponsored by other Federal agencies. If the equipment is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by USAID. User charges shall be treated as program income.

(e) When acquiring replacement equipment, the recipient may use the equipment to be replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment subject to the approval of USAID.

(f) The recipient's property management standards for equipment acquired with Federal funds and federally-owned equipment shall include all of the following.

(1) Equipment records shall be maintained accurately and shall include the following information.

(i) A description of the equipment.

(ii) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(iii) Source of the equipment, including the award number.

(iv) Whether title vests in the recipient, the Federal Government, or other specified entity.

(v) Acquisition date (or date received, if the equipment was furnished by the Federal Government) and cost.

(vi) Information from which one can calculate the percentage of Federal participation in the cost of the equipment (not applicable to equipment furnished by the Federal Government).

(vii) Location and condition of the equipment and the date the information was reported.

(viii) Unit acquisition cost.

(ix) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates USAID for its share.

(2) Equipment owned by the Federal Government shall be identified to indicate Federal ownership.

(3) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented; if the equipment was owned by the Federal Government, the recipient shall promptly notify the Federal awarding agency with whose funds the equipment was purchased.

(5) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(6) Where the recipient is authorized or required to sell the equipment, proper sales procedures shall be established which provide for competition to the extent practicable and result in the highest possible return.

(g) When the recipient no longer needs the equipment, the equipment may be used for other activities in accordance with the following standards. For equipment with a current per unit fair market value of \$5000 or more, the recipient may retain the

equipment for other uses provided that compensation is made to the original Federal awarding agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the equipment. If the recipient has no need for USAID-financed equipment, the recipient shall request disposition instructions from the Agreement Officer. USAID shall determine whether the equipment can be used to meet the agency's requirements. If no requirement exists within USAID, the availability of the equipment shall be reported to the General Services Administration to determine whether a requirement for the equipment exists in other Federal agencies. The USAID Agreement Officer shall issue instructions to the recipient no later than 120 calendar days after the recipient's request and the following procedures shall govern:

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the recipient's request, the recipient shall sell the equipment and reimburse USAID an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the recipient shall be permitted to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for the recipient's selling and handling expenses.

(2) If the recipient is instructed to ship the equipment elsewhere, the recipient shall be reimbursed by the Federal Government by an amount which is computed by applying the percentage of the recipient's participation in the cost of the original project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the recipient is instructed to otherwise dispose of the equipment, the recipient will be reimbursed by USAID for such costs incurred in its disposition.

(h) USAID reserves the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such transfer shall be subject to the following standards:

(1) The equipment shall be appropriately identified in the award or otherwise made known to the recipient in writing.

(2) USAID shall issue disposition instructions within 120 calendar days after receipt of a final inventory. The final inventory shall list all equipment acquired with award funds and federally-owned equipment. If USAID fails to issue disposition instructions within the 120 calendar day period, the recipient shall apply the standards of this section, as appropriate.

(3) When USAID exercises its right to take title, the equipment shall be subject to the provisions for federally-owned equipment.

226.35 Supplies and other expendable equipment.

(a) Title to supplies and other expendable equipment shall vest in the recipient upon acquisition. If there is a residual inventory of unused supplies exceeding \$5000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federally-sponsored

project or program, the recipient shall retain the supplies for use on non-Federal sponsored activities or sell them, but shall, in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as for equipment.

(b) The recipient shall not use supplies acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute as long as the Federal Government retains an interest in the supplies.

226.36 Intangible property.

(a) The recipient may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. USAID reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

(b) Recipients are subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."

(c) Unless waived by USAID, the Federal Government has the right to:

(1) Obtain, reproduce, publish or otherwise use the data first produced under an award; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

(d) Title to intangible property and debt instruments acquired under an award or subaward vests upon acquisition in the recipient. The recipient shall use that property for the originally-authorized purpose, and the recipient shall not encumber the property without approval of USAID. When no longer needed for the originally authorized purpose, disposition of the intangible property shall occur in accordance with the provisions of Section 226.34(g).

226.37 Property trust relationship.

Real property, equipment, intangible property and debt instruments that are acquired or improved with Federal funds shall be held in trust by the recipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. Recipients shall record liens or other appropriate notices of record to indicate that personal or real property has been acquired, improved or constructed with Federal funds and that use and disposition conditions apply to the property.

Procurement Standards

226.40 Purpose of procurement standards.

Sections 226.41 through 226.48 set forth standards for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds. These standards are

furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders. No additional procurement standards or requirements shall be imposed by USAID upon recipients, unless specifically required by Federal statute or executive order or approved by OMB.

226.41 Recipient responsibilities.

The standards contained in this section do not relieve the recipient of the contractual responsibilities arising under its contract(s). The recipient is the responsible authority, without recourse to USAID, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of an award or other agreement. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of statute are to be referred to such Federal, State or local authority as may have proper jurisdiction.

226.42 Codes of conduct.

The recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. However, recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.

226.43 Competition.

All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality and other factors considered. Solicitations shall clearly establish all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the recipient. Any and

all bids or offers may be rejected when it is in the recipient's interest to do so.

226.44 Procurement procedures.

(a) All recipients shall establish written procurement procedures. These procedures shall provide, at a minimum, that:

- (1) Recipients avoid purchasing unnecessary items,
- (2) Where appropriate, an analysis is made of lease and purchase alternatives to determine which would be the most economical and practical procurement for the Federal Government, and
- (3) Solicitations for goods and services provide for all of the following.

(i) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.

(ii) Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.

(iii) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.

(iv) The specific features of "brand name or equal" descriptions that bidders are required to meet when such items are included in the solicitation.

(v) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.

(vi) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

(b) Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. Recipients of USAID awards shall take all of the following steps to further this goal.

(1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.

(2) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises. To permit USAID, in accordance with the small business provisions of the Foreign Assistance Act of 1961, as amended, to give United States small business firms an opportunity to participate in supplying commodities and services procured under the award, the recipient shall to the maximum extent possible provide the following information to the Office of Small Disadvantaged Business Utilization (OSDBU/MRC), USAID Washington, DC 20523, at least 45 days prior to placing any order or contract in excess of the small purchase threshold:

(i) Brief general description and quantity of goods or services;

(ii) Closing date for receiving quotations, proposals or bids; and

(iii) Address where solicitations or specifications can be obtained.

(3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

(4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

(5) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

(c) The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the recipient but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The "cost-plus-a-percentage-of-cost" or "percentage of construction cost" methods of contracting shall not be used.

(d) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by agencies' implementation of E.O.s 12549 and 12689, "Debarment and Suspension."

(e) Recipients shall, on request, make available for USAID, pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply.

(1) A recipient's procurement procedures or operation fails to comply with the procurement standards in this part.

(2) The procurement is expected to exceed the small purchase threshold fixed at 41 U.S.C. 403 (11) and is to be awarded without competition or only one bid or offer is received in response to a solicitation.

(3) The procurement, which is expected to exceed the small purchase threshold, specifies a "brand name" product.

(4) The proposed award over the small purchase threshold is to be awarded to other than the apparent low bidder under a sealed bid procurement.

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the small purchase threshold.

226.45 Cost and price analysis.

Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

226.46 Procurement records.

Procurement records and files for purchases in excess of the small purchase threshold shall include the following at a minimum:

- (a) basis for contractor selection,
- (b) justification for lack of competition when competitive bids or offers are not obtained, and
- (c) basis for award cost or price.

226.47 Contract administration.

A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. Recipients shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

226.48 Contract provisions.

The recipient shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontracts.

(a) Contracts in excess of the small purchase threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

(b) All contracts in excess of the small purchase threshold shall contain suitable provisions for termination by the recipient, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(c) Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the recipient to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds \$100,000. For those contracts or subcontracts exceeding \$100,000, the USAID Agreement Officer may accept the bonding policy and requirements of the recipient, provided that USAID determines that the Federal Government's interest is adequately protected. In making this determination for contract or subcontracts to be performed overseas, the Agreement Officer shall take into consideration any established local practices relating to security. If such a determination has not been made, the minimum requirements shall be as follows.

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of its bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one

executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.

(4) Where bonds are required, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, "Surety Companies Doing Business with the United States."

(d) All negotiated contracts (except those for less than the small purchase threshold) awarded by recipients shall include a provision to the effect that the recipient, USAID, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(e) All contracts, including small purchases, awarded by recipients and their contractors shall contain the procurement provisions of Appendix A to this part, as applicable. Whenever a provision is required to be inserted in a contract under an agreement, the recipient shall insert a statement in the contract that in all instances where the US Government or USAID is mentioned, the recipient's name shall be substituted.

226.49 USAID-Specific Procurement Requirements

Procurement requirements which are applicable to USAID because of statute and regulation are in Subpart G.

Reports and Records

226.50 Purpose of reports and records.

Sections 226.51 through 226.53 establish the procedures for monitoring and reporting on the recipient's financial and program performance and the necessary standard reporting forms. They also set forth record retention requirements.

226.51 Monitoring and reporting program performance.

(a) Recipients are responsible for managing and monitoring each project, program, subaward, function or activity supported by the award. Recipients shall monitor subawards to ensure subrecipients have met the audit requirements as delineated in Section 226.26.

(b) The terms and conditions of the agreement will prescribe the frequency with which the performance reports shall be submitted. Except as provided in paragraph 226.51(f), performance reports will not be required more frequently than quarterly or, less frequently than annually. Annual reports shall be due 90 calendar days after the award year; quarterly or semi-annual reports shall be due 30 days after the reporting period. USAID may require annual reports before the anniversary dates of multiple year awards in lieu of these requirements. The final performance reports are due 90 calendar days after the expiration or termination of the award.

(c) If inappropriate, a final technical or performance report shall not be required after completion of the project.

(d) Performance reports shall generally contain, for each award, brief information on each of the following:

(1) A comparison of actual accomplishments with the goals and objectives established for the period, the findings of the investigator, or both. Whenever appropriate and the output of programs or projects can be readily quantified, such quantitativet when the SF-270 is used only for advances.

(ii) The type of reporting required w data should be related to cost data for computation of unit costs.

(2) Reasons why established goals were not met, if appropriate.

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(e) Recipients shall submit the original and two copies of performance reports.

(f) Recipients shall immediately notify USAID of developments that have a significant impact on the award-supported activities. Also, notification shall be given in the case of problems, delays, or adverse conditions which materially impair the ability to meet the objectives of the award. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

(g) USAID may make site visits, as needed.

(h) USAID shall comply with clearance requirements of 5 CFR part 1320 when requesting performance data from recipients.

226.52 Financial reporting.

(a) The following forms are used for obtaining financial information from recipients.

(1) SF-269 or SF-269A, Financial Status Report.

(i) USAID will require recipients to use either the SF-269 or SF-269A to report the status of funds for all nonconstruction projects or programs. The type of form required will be established in the award. USAID may however, have the option of not requiring the SF-269 or SF-269A when the SF-270, Request for Advance or Reimbursement, or SF-272, Report of Federal Cash Transactions, is determined to provide adequate information to meet its needs, except that a final SF-269 or SF-269A shall be required at the completion of the projecill be established in the agreement. If USAID requires accrual information and the recipient's accounting records are not normally kept on the accrual basis, the recipient shall not be required to convert its accounting system, but shall develop such accrual information through best estimates based on an analysis of the documentation on hand.

(iii) USAID will determine the frequency of the Financial Status Report for each project or program, considering the size and complexity of the particular project or program. The frequency of reports will be established in the agreement. However, the report shall not be required more frequently than quarterly or less frequently than annually. A final report shall be required at the completion of the agreement.

(iv) Recipients shall submit the SF-269 or SF-269A (an original and two copies) no later than 30 days after the end of each specified reporting period for quarterly and semi-annual reports, and 90 calendar days for annual and final reports. Extensions of reporting due dates may be approved by USAID upon

request of the recipient.

(2) SF-272, Report of Federal Cash Transactions.

(i) When funds are advanced to recipients USAID shall require each recipient to submit the SF-272 and, when necessary, its continuation sheet, SF-272a. USAID shall use this report to monitor cash advanced to recipients and to obtain disbursement information for each agreement with the recipients.

(ii) USAID may require forecasts of Federal cash requirements in the "Remarks" section of the report.

(iii) When practical and deemed necessary, USAID may require recipients to report in the "Remarks" section the amount of cash advances received in excess of three days. Recipients shall provide short narrative explanations of actions taken to reduce the excess balances.

(iv) Recipients shall be required to submit not more than the original and two copies of the SF-272 15 calendar days following the end of each quarter. USAID may require a monthly report from those recipients receiving advances totaling \$1 million or more per year.

(v) USAID may waive the requirement for submission of the SF-272 for any one of the following reasons:

(A) When monthly advances do not exceed \$25,000 per recipient, provided that such advances are monitored through other forms contained in this section;

(B) If, in USAID's opinion, the recipient's accounting controls are adequate to minimize excessive Federal advances; or,

(C) When the electronic payment mechanisms provide adequate data.

(b) When USAID needs additional information or more frequent reports, the following shall be observed.

(1) When additional information is needed to comply with legislative requirements, USAID shall issue instructions to require recipients to submit such information under the "Remarks" section of the reports.

(2) When USAID determines that a recipient's accounting system does not meet the standards in Section 226.21, additional pertinent information to further monitor awards may be obtained upon written notice to the recipient until such time as the system is brought up to standard. USAID, in obtaining this information, shall comply with report clearance requirements of 5 CFR part 1320.

(3) USAID may accept the identical information from the recipients in machine readable format or computer printouts or electronic outputs in lieu of prescribed formats.

(4) USAID may provide computer or electronic outputs to recipients when such expedites or contributes to the accuracy of reporting.

226.53 Retention and access requirements for records.

(a) This section sets forth requirements for record retention and access to records for awards to recipients. USAID shall not impose any other record retention or access requirements upon recipients.

(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the

quarterly or annual financial report, as authorized by USAID. The only exceptions are the following: (1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

(2) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

(3) When records are transferred to or maintained by USAID, the 3-year retention requirement is not applicable to the recipient.

(4) Indirect cost rate proposals, cost allocations plans, etc. as specified in paragraph 226.53(g).

(c) Copies of original records may be substituted for the original records if authorized by USAID.

(d) USAID shall request transfer of certain records to its custody from recipients when it determines that the records possess long term retention value. However, in order to avoid duplicate recordkeeping, USAID may make arrangements for recipients to retain any records that are continuously needed for joint use.

(e) USAID, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

(f) Unless required by statute, USAID will not place restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when USAID can demonstrate that such records shall be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to USAID.

(g) Indirect cost rate proposals, cost allocations plans, etc. Paragraphs (g)(1) and (g)(2) of this section apply to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) If submitted for negotiation. If the recipient submits to the Federal awarding agency or the subrecipient submits to the recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts on the date of such submission.

(2) If not submitted for negotiation. If the recipient is not required to submit to the Federal awarding agency or the subrecipient is not required to submit to the recipient the proposal, plan, or other computation for negotiation purposes, then the 3-year retention period for the proposal, plan, or other

computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

Suspension, Termination and Enforcement

226.60 Purpose of suspension, termination and enforcement. Sections 226.61 and 226.62 set forth uniform suspension, termination and enforcement procedures.

226.61 Suspension and Termination.

(a) Awards may be terminated (or, with respect to paragraphs (a)(1) and (3) of this section, suspended) in whole or in part if any of the circumstances stated in paragraphs (a)(1) through (4) of this section apply.

(1) By USAID, if a recipient materially fails to comply with the terms and conditions of an award.

(2) By USAID with the consent of the recipient, in which case the two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

(3) If at any time USAID determines that continuation of all or part of the funding for a program should be suspended or terminated because such assistance would not be in the national interest of the United States or would be in violation of an applicable law, then USAID may, following notice to the recipient, suspend or terminate the award in whole or in part and prohibit the recipient from incurring additional obligations chargeable to the award other than those costs specified in the notice of suspension. If a suspension is effected and the situation causing the suspension continues for 60 days or more, then USAID may terminate the award in whole or in part on written notice to the recipient and cancel any portion of the award which has not been disbursed or irrevocably committed to third parties.

(4) By the recipient upon sending to USAID written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if USAID determines in the case of partial termination that the reduced or modified portion of the award will not accomplish 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 recipient 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 recipient after termination, as appropriate.

226.62 Enforcement.

(a) Remedies for noncompliance. If a recipient 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 addition to imposing any of the special conditions outlined in Section 226.14, take one or more of the following actions, as appropriate in the circumstances.

(1) Temporarily withhold cash payments pending correction

of the deficiency 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 terminate 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 recipient may appeal, in accordance with Subpart F, any action taken by USAID on which a dispute exists and a decision by the Agreement Officer has been obtained. There is no right to a hearing on such an appeal.

(c) Effects of suspension and termination. Costs of a recipient resulting from obligations incurred by the recipient during a suspension or after termination of an award are not allowable unless USAID expressly authorizes them in the notice of suspension or termination or subsequently. Other recipient 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 recipient before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, are noncancellable, and

(2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(d) Relationship to debarment and suspension. 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 implementing 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 procedures for subsequent disallowances and adjustments.

226.71 Closeout procedures.

(a) Recipients shall submit, within 90 calendar days after the date of completion of the award, all financial, performance, 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 extension, a recipient shall liquidate all obligations incurred under the award not later than 90 calendar days after the funding period or the date of completion as specified in the terms and conditions of the award or in agency implementing instructions.

(c) USAID will make prompt payments to a recipient for allowable reimbursable costs under the award being closed out.

(d) The recipient shall promptly refund 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. 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 Sections 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 Section 226.26.

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

(5) Records retention as required in Section 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 Section 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.

(b) Decisions of the USAID Agreement Officer shall be final unless, within 30 days of receipt of the decision, the grantee appeals the decision to USAID's Deputy Assistant Administrator for Management, USAID, Washington DC 20523. Appeals must be in writing with a copy concurrently furnished to the Agreement Officer.

(c) In order to facilitate review on the record by the Deputy Assistant Administrator for Management, the recipient shall be given an opportunity to submit written evidence in support of its appeal. No hearing will be provided.

(d) Decisions by the Deputy Assistant Administrator for Management shall be final.

SUBPART G - USAID-SPECIFIC REQUIREMENTS

226.1001 Eligibility Rules for Goods and Services

[Reserved]

226.1002 Local Cost Financing

[Reserved]

226.1003 Air Transportation

[Reserved]

226.1004 Ocean Shipment of Goods

[Reserved]

APPENDIX A TO PART 226 - CONTRACT PROVISIONS

All contracts, awarded by a recipient including small purchases, shall contain the following provisions as applicable:

1. Equal Employment Opportunity - All contracts to be performed in the United States, or to be performed with employees who were recruited in the United States, shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR Chapter 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," to the extent required by the foregoing.
2. Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C.

276c) - All contracts and subawards in excess of \$2000 for construction or repair to be performed in the United States awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

3. Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7) - When required by Federal program legislation, all construction, alteration, and/or repair contracts to be performed in the United States awarded by the recipients and subrecipients of more than \$2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.

4. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) - Where applicable, all contracts awarded by recipients in excess of \$2000 for construction contracts to be performed in the United States and in excess of \$2500 for other such contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. Rights to Inventions Made Under a Contract or Agreement - Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to

Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

6. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended - Contracts and subawards of amounts in excess of \$100,000 to be performed in the United States shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

7. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors who apply or bid for an award exceeding \$100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

8. Debarment and Suspension (E.O.s 12549 and 12689) - Certain contracts shall not be made to parties listed on the nonprocurement portion of the General Services Administration's "Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs" in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principals.

9. Contracts which require performance outside the United States shall contain a provision requiring Worker's Compensation Insurance (42 U.S.C. 1651, et seq.). As a general rule, Department of Labor waivers will be obtained for persons employed outside the United States who are not United States citizens or residents provided adequate protection will be given such persons. The recipient should refer questions on this subject to the USAID Agreement Officer.

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Michael D. Sherwin
Deputy Assistant Administrator
for Management