

Agency for International Development

§ 226.71

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 § 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 ter-

mination 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