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§ 202.8 Refund by suppliers and/or agencies.

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

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

§ 202.9 Waiver authority.

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

PART 203—REGISTRATION OF AGENCIES FOR VOLUNTARY FOREIGN AID

Sec.

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

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§ 203.1 Purpose.

(a) AID maintains two registries of PVOs engaging in, or intending to engage in, voluntary foreign aid operations—one of U.S., the other of foreign PVOs. The registry facilitates cooperation between AID and the non-profit private sector by providing a mechanism for identifying which organizations are eligible for AID resources intended for PVOs.

(b) Registration is a condition of eligibility for assistance under sections 123b and 607(a) of the FAA (the payment of transportation charges and the sale of services or commodities such as excess property) and confers a preference for assistance under section 202 of Pub. L. 480. Other eligibility requirements apply, however, including a program review.

(c) Registration is a condition of eligibility for assistance under the “PVO grant program.” However, it is only one of several eligibility requirements for such assistance. Others include: (1) Program review; (2) pre-grant award review, including compliance with OMB Circulars A-110 and A-122; and (3) funding requirements of section 123(g) of the FAA.

(d) The registry serves as the basis for computing the amount of AID funding made available to PVOs.

(e) Registration provides the information necessary to determine whether a PVO meets the funding requirements of section 123(g) of the FAA. Section 123(g) provides that a PVO must obtain at least 20 percent of its total annual financial support for its international activities from sources other than the United States Government to be eligible to receive funding under the PVO grant program. Further, a preference is given to those PVOs which receive cash from private, i.e., nongovernmental, sources.

(f) It is not the purpose of registration to make, or enable to be made, any representation to the public concerning the meaning of being registered.

(g) Definitions: As used in this part:

(1) *AID* means Agency for International Development.

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

(3) *Funds from private U.S. sources* means cash contributions received from private nongovernmental U.S. sources, e.g., private individuals, groups, foundations and corporations. Cash contributions received directly or indirectly from the U.S. Government, state or local governments, the United Nations and other public international organizations, and foreign governments, institutions and individuals are not included. All in-kind contributions are excluded.

(4) *Overseas program costs* means the costs of all voluntary foreign aid operations conducted outside the U.S. and includes that portion of applicable indirect costs incurred in the U.S. (excluding fund-raising costs) necessary to carry out those voluntary foreign aid operations.

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

(6) *PVO* means private and voluntary organizations.

(7) *PVO grant program* means those grants which AID has determined as a matter of policy can be made to only those PVOs which are registered and which meet the funding requirements of section 123(g) of the FAA, 22 U.S.C. 215u(g).

(8) *Subventions* means (i) The payment of transportation charges under section 123(b) of the FAA, 22 U.S.C. 215u(b); (ii) The sale of services or commodities, e.g., excess property, under section 607(a) of the FAA, 22 U.S.C. 2357(a); and (iii) The furnishing of agricultural commodities under section 202 of Pub. L. 480, 7 U.S.C. 1722.

§ 203.2 Conditions of registration and documentation requirements for U.S. private and voluntary organizations.

An applicant shall be registered with A.I.D. as a U.S. PVO if A.I.D. finds that the applicant has satisfied all the conditions and documentation requirements of registration listed below. An applicant seeking registration shall submit to A.I.D., Washington, DC 20523, the documentation listed below accompanied by a letter stating the reasons

for seeking registration signed by its chief executive officer and supported by a resolution of its governing body. In addition, the applicant shall submit such other information as A.I.D. may reasonably require to determine if the applicant should be registered.

(a) *Condition and documentation requirement no. 1—(1) Condition.* That the applicant is a private nongovernmental organization which is organized under U.S. law and maintains its principal place of business in the United States and is not a university, college, accredited degree-granting institution of education, private foundation, organization engaged exclusively in research or scientific activities, church, or organization engaged exclusively in religious activities.

(2) *Documentation requirement.* Articles of incorporation, bylaws, relevant documents establishing its legal status, and a statement as to the location of the organization's principal offices.

(b) *Condition and documentation requirement, no. 2—(1) Condition.* That the applicant receives funds from private U.S. sources, as defined in paragraph (g)(3) of § 203.1.

(2) *Documentation requirement.* The latest audited financial statement (see Condition No. 6 at § 203.2(f) of this section).

(c) *Condition and documentation requirement no. 3—(1) Condition.* That the applicant is a nonprofit organization and has a tax exemption under any one of the following provisions of the Internal Revenue Code: section 501(c)(3), except private foundations under section 509(a)(2); as a social welfare organization under section 501(c)(4); section 501(c)(5); or section 501(c)(6).

(2) *Documentation requirement.* IRS Statement of Tax Exemption, and a copy of IRS Form 990 or 990-PF "Return of Organization Exempt from Income Tax," or one comparable to the Internal Revenue Service document.

(d) *Condition and documentation requirement no. 4—(1) Condition.* That the applicant is a voluntary organization, i.e., receives voluntary contributions of money, staff time or in-kind support from the general public.

(2) *Documentation requirement.* Latest annual report (or similar document)