

§ 201.45

to commodities, or by reason of any request for the diversion of commodities.

§ 201.45 Termination or modification of a loan, grant or implementing document.

(a) *Effect of termination or modification.* (1) Except as provided in paragraph (a)(2) of this section, the availability of USAID funds to finance the procurement of commodities and commodity-related services shall terminate or shall be modified, whenever and to the same extent that the implementing document which relates to such delivery is terminated or modified by operation of provisions contained in the document, or by the exercise of rights otherwise reserved to USAID.

(2) Unless the supplier and USAID agree otherwise, to the extent that the supplier has received an irrevocable letter of credit from a bank under an USAID letter of commitment, the purchase contract shall be affected only to the extent necessary to comply with any vesting order issued by USAID in accordance with § 201.44.

(b) *Responsibilities of parties after termination or modification of USAID-financing.* Upon termination or modification of USAID-financing of commodities or commodity-related services, the supplier, importer and approved applicant shall make such arrangements as are necessary to obtain the cancellation or modification of any letter of credit in favor of the supplier.

§ 201.46 Compensation to supplier if shipment is prohibited.

(a) *Payment to supplier.* USAID shall make appropriate payment to a supplier for the value of USAID-financed commodities available for immediate shipment from the United States if all the following conditions are satisfied:

(1) Shipment is prohibited by order of the U.S. Government and such order has general application to all shipments to the cooperating country.

(2) Payment may not be made by the bank under the terms of the letter of credit or payment instructions.

(3) The supplier is unable to dispose of the commodities without loss.

(4) The supplier tenders to USAID a negotiable warehouse receipt covering the commodities in question and pre-

22 CFR Ch. II (4–1–06 Edition)

sents to USAID such other documentation required by § 201.52 as may be appropriate under the circumstances.

(b) *Other settlement.* In lieu of accepting title to the commodities, USAID may negotiate with the supplier such other settlement as may be fair and equitable under the circumstances.

§ 201.47 Use of marine insurance loss proceeds.

The borrower/grantee shall pay promptly to USAID a sum equal to the proceeds received by an importer or its assignee in settlement of a marine insurance claim under a marine insurance policy financed pursuant to this part 201, if such proceeds are not expended in the manner provided by § 201.26 within a reasonable period after receipt by the importer.

Subpart F—Payment and Reimbursement

§ 201.50 Purpose.

This subpart describes:

(a) The methods by which USAID will make payment or reimbursement for commodities and commodity related services which have been furnished;

(b) The documentation required to be submitted to USAID for the purpose of obtaining such payment or reimbursement; and

(c) The terminal date for presentation of documents which USAID requires as a condition for payment or reimbursement.

§ 201.51 Methods of financing.

Under procurements subject to this part 201, the following methods of financing may be employed by USAID. In each case, the method of financing shall be consistent with provisions in the pertinent implementing documents.

(a) *Direct reimbursement.* Upon presentation to USAID of the documents specified in § 201.52, a borrower/grantee will be reimbursed for the cost of commodities and commodity-related services procured by the borrower/grantee directly or procured by other importers with the authorization of the borrower/

grantee, if such commodities or services are eligible under the implementing document and under this part 201 for USAID-financing.

(b) *Letter of commitment to a bank.* At the request of the borrower/grantee, USAID will issue a letter of commitment to a bank for a specified amount in dollars. Reimbursement to a bank will be in accordance with the terms of such letter of commitment for sight payments made for the account of an approved applicant. Any such payment by a bank made in anticipation of a letter of commitment and falling within the scope of payments authorized by such letter of commitment when issued, will be deemed to be a payment to be reimbursed by USAID thereunder.

(1) *Requests for bank letters of commitment.* All requests for bank letters of commitment shall be in the English language and shall be submitted to USAID by the borrower/grantee in duplicate. They shall contain the following:

(i) Identification of the loan or grant agreement;

(ii) The dollar amount of the letter of commitment;

(iii) The name and address of the bank to which the letter of commitment is to be issued;

(iv) The name and address of the approved applicant;

(v) The expiration date to be stated in the letter of commitment, which shall be not later than the final date specified in the implementing document for submission of documentation to the bank as a basis for disbursement against the letter of commitment, except that, if a terminal shipping date is provided in the implementing document, the expiration date shall be the last day of the month following the month in which the terminal shipping date occurs.

(vi) Identification of the items to be financed under the letter of commitment (including the Schedule B identification).

(2) *Approved applicant's request to bank—(i) Form and effect of request.* An approved applicant may apply to the bank holding a letter of commitment for the issuance, confirmation, or advice of a commercial letter of credit for the benefit of a supplier, or may in-

struct the bank to make payments at sight to such supplier, or may instruct the bank to make payments at sight to or for the account of the borrower/grantee.

(ii) *Borrower/grantee assignment under a letter of commitment.* The borrower/grantee's request to USAID for a letter of commitment shall be deemed notification to USAID of assignment of any rights to receive reimbursement for the specified funds under the related implementing document. USAID, by issuance of the letter of commitment, shall be deemed to have consented to such assignment. Any such assignment or consent shall inure to the benefit of the bank's legal successors and assignees.

(iii) *Requirements imposed by bank.* The borrower/grantee and the approved applicant shall be deemed to have consented to imposition by the bank upon the beneficiary of any letter of credit or payment instruction of such requirements as the bank deems necessary in order to comply with its applicable obligations to USAID. Such consent shall be deemed an express condition incorporated in any request of the approved applicant under paragraph (b)(2)(i) of this section.

(3) *Reimbursement of bank.* Upon presentation to USAID of the documents described in §201.52, USAID will reimburse the bank for any amounts paid by it in dollars to or on behalf of the approved applicant pursuant to a letter of commitment, subject, however, to compliance by the bank with the requirements of subpart H. Such documents in the normal course should be presented to USAID promptly. Bank charges will be eligible for reimbursement if authorized in the letter of commitment. Reimbursement normally will be made within 7 days by an electronic funds transfer.

(c) *Bank charges under letters of commitment.* (1) To claim reimbursement for commissions, transfers or other charges, not including interest on advances, the bank shall submit the Voucher SF 1034 and shall attach thereto a copy of the payment advice which identifies the costs being billed.

(2) To claim reimbursement for interest on advances, the bank shall claim

§ 201.52

22 CFR Ch. II (4-1-06 Edition)

reimbursement on the Voucher SF 1034, attaching thereto:

(i) The monthly statement of advance account established under the letter of commitment, in duplicate, showing:

(A) The opening balance;

(B) The date and amount of each type of charge attributable to the letter of commitment, indicating the number of the letter of commitment, subsidiary letter of credit, or payment instruction or request under which the charge was made;

(C) The date and amount of each USAID reimbursement to the bank, indicating either the USAID bureau voucher number or the number of the letter of commitment, subsidiary letter of credit, or payment instruction or request under which the payment was made; and

(D) The closing balance;

(ii) The bank's monthly advice of charge, in duplicate, showing:

(A) The outstanding balance in the advance account on each day of the period covered; and

(B) The amount of interest charged during the period.

(3) *Certification.* Each claim for reimbursement shall have endorsed thereon or attached thereto a certification by an authorized representative of the bank that the charges for which payment is being claimed are in accordance with the schedule of charges agreed on between the bank and the approved applicant or beneficiary.

(4) *Report.* The bank shall submit a report showing the financial status of each letter of commitment issued to it by USAID. The content, format and frequency of the report shall be prescribed in the letter of commitment. The report shall be prepared in an original and two copies, and distributed as follows: USAID/W (original), approved applicant (copy) and cognizant Mission (copy). The report to USAID/W should be sent to the Office of Financial Management, Cash Management and Payment Division (M/FM/CMP), USAID, Washington, DC 20523-7702. The report shall be certified by an authorized signatory of the bank.

(d) *Direct letter of commitment to a supplier.* (1) At the request of a borrower/grantee, USAID may issue a direct let-

ter of commitment to a supplier assuring payment by USAID of specified amounts to cover the cost of commodities and commodity-related services. The letter of commitment to a supplier will identify the purchase contract to which it relates and the implementing document under which it is issued.

(2) Assignment may be permitted as provided for in the direct letter of commitment.

[55 FR 34232, Aug. 22, 1990, as amended at 64 FR 17535, Apr. 12, 1999]

§ 201.52 Required documents.

(a) *Commodities and commodity-related services.* Claims for reimbursement or payment with respect to commodities and commodity-related services shall be supported by the documents listed in paragraphs (a)(1) through (8) of this section or by such other documents as may be required in the letter of commitment or other applicable implementing document. Each document shall indicate the identification number of the letter of commitment or other applicable implementing document.

(1) *Voucher.* Voucher SF 1034 with three copies, to be prepared by the borrower/grantee, by the approved applicant, by the bank as assignee or agent for the approved applicant, or, in the case of a direct letter of commitment, by the supplier.

(2) *Supplier's invoice.* (i) One copy of the supplier's detailed invoice showing the following:

(A) The name and address of the importer;

(B) The quantity and the description of each item shipped, in sufficient detail, including the U.S. Department of Commerce Schedule B number, for ready identification;

(C) The total gross sales price;

(D) The total net sales price (determined by deducting from the total gross sales price the amounts required to be deducted under § 201.65(d));

(E) The sales price for each item net of all trade discounts under § 201.65(d);

(F) The delivery terms (e.g., f.o.b., f.a.s., c.i.f. or c. & f.);

(G) The type and dollar amount of each incidental service which is not included in the price of the commodity