

provisions shall also be applied to sub-contracts.

(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 U.S. 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

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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 quantitative 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-sup-

ported 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 non-construction 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 project when the SF-270 is used only for advances.

(ii) The type of reporting required will 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