

**§ 226.81**

**§ 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 § 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.

**22 CFR Ch. I (4–1–01 Edition)**

**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 \$2,000 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 \$2,000 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,