

§ 201.80

that title to commodities be vested in it, or modifies any implementing document concerning the disposition of documents, USAID shall give written notice thereof to the banks holding applicable letters of commitment and shall instruct each bank with regard to the disposition of documents. Each such bank shall be relieved of any liability whatsoever to the approved applicant for anything done or omitted to be done under instruction of USAID. Notwithstanding the foregoing, a bank shall comply with the instructions of USAID only to the extent that it may do so without impairing or affecting any irrevocable obligation to any person or organization except an approved applicant, and in the event the bank shall incur any costs, expenses, or liabilities, including any liability to the approved applicant, it shall be repaid and reimbursed by USAID in respect thereof.

Subpart I—Rights and Remedies of USAID, and Waiver Authority

§ 201.80 Purpose.

This subpart sets forth certain USAID rights and remedies against borrower/grantees and suppliers, and prescribes certain general provisions relating to the waiver by USAID of this part.

§ 201.81 Rights of USAID against borrower/grantees.

If any transaction financed hereunder violates the requirements of this part or any U.S. statute or any rule or regulation of USAID promulgated under any such statute, USAID may require the borrower/grantee to refund the amounts USAID determines are attributable to such violation and may exercise any right of acceleration or termination contained in the implementing document. The borrower/grantee shall be deemed to have agreed to make such refund or accelerated payment promptly upon request by USAID and shall be deemed to have consented to any modification of the implementing document determined by USAID to be necessary to reflect any such refund or acceleration.

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§ 201.82 Rights of USAID against suppliers.

Without limiting the responsibility of the borrower/grantee or other parties, USAID may require an appropriate refund to it by a supplier under any transaction which violates the requirements of this part, whenever in USAID's opinion the failure of the supplier to comply with the rules and other requirements of this part has contributed to such violation. Any refund requested will include interest from the time of payment to the supplier. Interest will be charged at the rate established by the Secretary of the Treasury in accordance with the Internal Revenue Code, 26 U.S.C. 6621(b).

§ 201.83 No waiver of alternative rights or remedies by USAID.

No right reserved to USAID in this subpart to seek a refund from a borrower/grantee, and no exercise of such right, whether or not successful, shall in any way limit or affect, under the doctrine of the election of remedies or otherwise, USAID's rights against a supplier under this subpart I or under the laws of the United States, or of any other country or political subdivision thereof, nor shall any right or remedy herein reserved to USAID against a supplier in any way derogate from or otherwise limit any other rights or remedies which may accrue to USAID under such laws.

§ 201.84 Limitation on period for making refund requests.

USAID will endeavor, but shall not be bound, to make any requests for refunds from a borrower/grantee within three years from the date of the last disbursement of USAID funds for the transaction to which such request relates.

§ 201.85 Legal effect of USAID approvals and decisions.

In any transaction subject to this part 201, USAID may reserve certain rights to approve the transaction for USAID-financing. USAID, in reserving any approval rights, acts solely as a financing entity to assure the proper use of United States Government funds. Any decision by USAID to exercise or