

[Federal Register: May 13, 2005 (Volume 70, Number 92)]
[Rules and Regulations]
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[DOCID:fr13my05-3]

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AGENCY FOR INTERNATIONAL DEVELOPMENT

22 CFR Part 203

Registration of Agencies for Voluntary Foreign Aid; Summary of
Comments

AGENCY: U.S. Agency for International Development, USAID.

ACTION: Final rule.

SUMMARY: USAID is revising Part 203 in its entirety to clarify the
purposes of Registration and to emphasize that organizations must be
private and voluntary in nature in order to be registered.

DATES: Effective Date: May 13, 2005.

FOR FURTHER INFORMATION CONTACT: Mary Q. Newton, Registrar, Office of
Private Voluntary Cooperation--American Schools & Hospitals Abroad;
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SUPPLEMENTARY INFORMATION: On May 7, 2002, the Agency published in the
Federal Register a proposed revision of Part 203.

The comment period was May 8, 2003, to July 8, 2002.

The Agency received comments from eleven private voluntary
organizations (PVOs) as well as comments from two cooperative
development organizations (CDOs). The following summarizes the
principal comments and actions taken:

1. Annual Documentation Requirements (see Sec. 203.5). For PVOs
submitting an Office of Management and Budget (OMB) Circular A-133
Audit, the due date for submitting annual documents was changed from
six months to nine months following the organization's fiscal year end
to take into account the time required for the registrant to prepare
the OMB Circular A-133 audit.

2. Submission of Documents. A comment expressed opposition to
submitting duplicate documents to various offices within USAID. The
words ``the same or'' were deleted from 203.4(d). The sentence now
reads: ``Other USAID officials may request similar information at a
later date for purposes of determining the PVO's eligibility for a
particular grant or cooperative agreement.''

3. Registration Status--Transition Provisions. PVOs currently
registered will continue to be registered under the new rule. The new
annual documentation requirements are in effect as of the date of the
new rule. The previous rule and the new rule are available on the USAID
Web site at <http://www.usaid.gov> Keyword: PVO Registration. New
applicants will be required to submit their applications and
documentation under the revised Conditions of Registration and new
rules.

4. Registration of CDOs. Two comments were made with regard to the
elimination of Registration eligibility for IRS 501(c)(4) and 501(c)(6)
organizations, specifically cooperative development organizations
(CDOs). The Agency's intent is not to eliminate CDOs from the U.S. PVO
Registry at <http://www.usaid.gov> Keyword: Registry. Therefore, CDOs
will continue to be listed in the Registry and will continue to be
required to meet the annual documentation requirements in Sec. 203.5.

(see Sec. 203.12)

5. AID Form 1550-2. A comment requested that PVOs not currently receiving funding from the U.S. Government for overseas programs not be required to submit the AID Form 1550-2. The suggested change was not adopted since AID Form 1550-2 provides current demographic information on each PVO as well as

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financial information. The AID Form 1550-2 has a two-fold purpose: collecting data required to determine whether the organization meets USAID's Conditions of Registration and provide USAID with the information for computing the amount of USAID funding made available to PVOs. Until an applicant completes the AID Form 1550-2 in its entirety, the Agency cannot determine whether that applicant meets the Conditions of Registration.

6. Registration of Non-U.S. PVOs. One comment concerned the Registration on non-U.S. PVOs. There are two types of non-U.S. PVOs: Local and International. A ``Local PVO'' is a non-U.S. PVO operating in the same foreign country in which it is organized. Local PVOs are not required to register with USAID/Washington. An ``International PVO'' is a non-U.S. PVO that performs development work in one or more countries other than the country in which it is domiciled. International PVOs are required to register with USAID. The Registration procedures for International PVOs have been added (see Sec. 203.6).

List of Subjects in 22 CFR Part 203

Foreign aid, Nonprofit organizations.

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Accordingly, 22 CFR Part 203 is revised as follows.

PART 203--REGISTRATION OF PRIVATE VOLUNTARY ORGANIZATIONS (PVOs)

Sec.

203.1 Purpose.

203.2 Definitions.

203.3 U.S. PVO conditions of registration.

203.4 U.S. PVO initial documentation requirements.

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203.6 IPVO conditions of registration.

203.7 IPVO initial documentation requirements.

203.8 IPVO annual documentation requirements.

203.9 Denial of registration.

203.10 Termination of registration.

203.11 Access to records and communications.

203.12 Cooperative Development Organizations (CDOs).

203.13 Delegation of authority.

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

Sec. 203.1 Purpose.

(a) USAID registers PVOs to:

(1) Meet statutory and regulatory requirements that a U.S. PVO be registered with USAID as a condition for USAID funding.

(2) Provide USAID with information for computing the amount of USAID funding made available to PVOs.

(b) It is not the purpose of registration to allow or enable registered PVOs to make any representation to the public concerning the meaning of being registered with USAID. Promotional materials or advertisements suggesting otherwise will be grounds for removal from the USAID PVO Registry.

(c) Registration does not bring an organization within the Ambassador's authority and responsibility for the security of U.S.

Government operations and personnel abroad.

Sec. 203.2 Definitions.

As used in this part:

(a) Cooperative Development Organization (CDO) means an organization designated by USAID as a voluntary, independent business enterprise formed to meet specific needs of its members through a common venture.

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

(c) General Public means citizens and nongovernmental organizations (NGOs). The general public does not include government agencies in the United States or abroad, or public international organizations such as the United Nations and the World Health Organization.

(d) Headquarters means the principal executive office where legal, accounting, and administrative information may be accessed in the daily course of conducting business.

(e) International Private Voluntary Organization (IPVO) means an entity that:

(1) Is non-U.S. based in that it is organized under the laws of the country in which it is domiciled;

(2) Is a private nongovernmental organization (NGO) that solicits and receives cash contributions from the general public;

(3) Is a charitable organization in that it is nonprofit and tax exempt under the laws of its country of domicile and operation, and is not a university, college, accredited degree-granting institution of education, private foundation, hospital, organization engaged exclusively in research or scientific activities, church, synagogue, mosque or other similar entities organized primarily for religious purposes; and

(4) Conducts, or anticipates conducting, program activities in one or more countries other than its country of origin that are consistent with the general purposes of the Foreign Assistance Act and/or Public Law 480.

(5) Is not recognized as a Public International Organization according to USAID's Automated Directives System (ADS) 308.3.

(f) Local Private Voluntary Organization (LPVO) means a non-U.S. based PVO that meets the definition of an International Private Voluntary Organization, except that it operates only in the same foreign country in which it is organized. LPVOs are not required to register with USAID/Washington but USAID Missions may require some other eligibility method when making awards.

(g) Non-U.S. Private Voluntary Organization (Non-U.S. PVO) means an entity that meets the definition of a U.S. PVO, but is not headquartered in the United States. Non-U.S. PVOs include both Local Private Voluntary Organizations and International Private Voluntary Organizations.

(h) Nongovernmental Organization (NGO) means any nongovernmental organization or entity, whether nonprofit or profit-making.

(i) Nonprofit organization means any corporation, trust, association, cooperative or other organization that is operated primarily for service, charitable, scientific, educational or other similar purposes; is not organized for profit; and uses its net proceeds to maintain, improve, and/or expands its operations.

(j) Private Voluntary Organization (PVO) See U.S. Private Voluntary Organization, International Private Voluntary Organization, and Local Private Voluntary Organization.

(k) Public International Organization (PIO) means a non-U.S. based organization (i.e., composed principally of governments) in which the U.S. participates. (See USAID's Automated Directives System (ADS) 308.3).

(l) Public Law 480 means the Agricultural Trade Development and Assistance Act of 1954, as amended, 7 U.S.C. 1691, et seq.

(m) Solicits means to undertake a substantial effort to obtain donations.

(n) Supporting Services means the total of general and

administration expenses plus fundraising expenses.

(o) USAID means the U.S. Agency for International Development.

(p) U.S. Private Voluntary Organization (U.S. PVO) means an entity that:

(1) Is organized under the laws of the United States and headquartered in the United States;

(2) Is a nongovernmental organization (NGO) that solicits and receives cash

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contributions from the U.S. general public;

(3) Is a charitable organization in that it is nonprofit and exempt from Federal income taxes under section 501(c)(3) of the Internal Revenue Code, and is not a university, college, accredited degree-granting institution of education, private foundation, hospital, organization established by a major political party in the United States, organization established, funded and audited by the U.S. Congress, organization engaged exclusively in research or scientific activities, church, synagogue, mosque or other similar entity organized primarily for religious purposes; and

(4) Conducts, or anticipates conducting, overseas program activities that are consistent with the general purposes of the Foreign Assistance Act and/or Public Law 480.

Sec. 203.3 U.S. PVO conditions of registration.

There are eight Conditions of Registration for U.S. organizations. The first four Conditions relate to whether an organization meets the definition of a U.S. PVO, as set forth in Sec. 203.2 (p), while the last four Conditions establish standards by which the U.S. PVO is evaluated.

An applicant must be registered with USAID as a U.S. PVO if USAID finds that the applicant has satisfied all of the following Conditions:

(a) Condition No. 1 (U.S. based). Is U.S. based in that it:

(1) Is organized under the laws of the United States; and

(2) Has its headquarters in the United States.

(b) Condition No. 2 (Private). Is a nongovernmental organization (NGO) and solicits and receives cash contributions from the U.S. general public.

(c) Condition No. 3 (Voluntary). Is a charitable organization in that it:

(1) Is nonprofit and exempt from Federal income taxes under Section 501(C)(3) of the Internal Revenue Code; and

(2) Is not a university, college, accredited degree-granting institution of education, private foundation, hospital, organization established by a major political party in the United States, organization established, funded and audited by the U.S. Congress, organization engaged exclusively in research or scientific activities, church, synagogue, mosque or other similar entity organized primarily for religious purposes.

(d) Condition No. 4 (Overseas Program Activities). Conducts, or anticipates conducting, overseas program activities that are consistent with the general purposes of the Foreign Assistance Act and/or Public Law 480.

(e) Condition No. 5 (Board of Directors). Has a governing body:

(1) That meets at least annually;

(2) Whose members do not receive any form of income for serving on the board; and

(3) Whose majority is not composed of the PVO's officers or staff members.

(f) Condition No. 6 (Financial Viability). That it:

(1) Accounts for its funds in accordance with generally accepted accounting principles (GAAP);

(2) Has a sound financial position;

(3) Provides its financial statements to the public upon request; and

(4) Has been incorporated for not less than 18 months.

(g) Condition No. 7 (Program Activities vs. Supporting Services).

That it:

(1) Expends and distributes its funds in accordance with the annual report of program activities;

(2) Does not expend more than 40 percent of total expenses on supporting services.

(3) In order to maintain its registration, conducts international program activities within the last three years. For example, if a U.S. PVO did not have any international activities for 2004, the current year, or 2003, but did have activities in 2002, then it would remain registered. However, if it did not have any international activities in 2005, USAID would remove it from the Registry in 2006 because for the previous three years (2003, 2004, 2005), it did not conduct any international activities.

(h) Condition No. 8 (General Eligibility). It is not:

(1) Suspended or debarred by an agency of the U.S. Government;

(2) Designated as a foreign terrorist organization by the Secretary of State, pursuant to Section 219 of the Immigration and Nationality Act, as amended; or

(3) The subject of a decision by the Department of State to the effect that registration or a financial relationship between USAID and the organization is contrary to the national defense, national security, or foreign policy interests of the United States.

Sec. 203.4 U.S. PVO initial documentation requirements.

(a) So that USAID can determine whether an applicant meets the Conditions of Registration, an application must be submitted in duplicate. The application instructions and forms packet are available at USAID Web site <http://www.usaid.gov> Keyword: PVO Registration. The completed application must include:

(1) A cover letter with

(i) The reason for applying for registration; and

(ii) A description of current or intended overseas program activities;

(2) Articles of incorporation on state letterhead with state seal and authorizing state official's signature;

(3) Bylaws establishing the applicant's corporate structure;

(4) IRS Form 990 and a copy of an IRS letter of tax exemption;

(5) Audited financial statements for the most recent fiscal year prepared on an accrual basis in accordance with generally accepted accounting principles (GAAP) by an independent certified public accountant (CPA); an Office of Management and Budget (OMB) Circular A-133 audit, if applicable;

(6) Annual report or similar document that describes overall program activities for the same year as the audit, including a list of board members;

(7) AID Form 1550-2, PVO Annual Return; and

(8) AID Form 200-1, PVO Classification Form.

(b) In addition, each applicant must submit such other information as USAID may reasonably require to determine whether the organization meets the Conditions of Registration.

(c) USAID may revise this list of documents from time to time.

(d) Other USAID officials may request information similar to that submitted under these regulations for other purposes; for example, to determine an organization's eligibility for a particular grant or cooperative agreement.

(e) The completed application must be sent in duplicate to the USAID Registrar, Office of Private Voluntary Cooperation--American Schools & Hospitals Abroad, 1300 Pennsylvania Avenue, NW., Washington, DC 20523-7600.

Sec. 203.5 U.S. PVO annual documentation requirements.

(a) To maintain its registration, each registered PVO must submit

documents and forms annually. The submission instructions and forms packet are available at USAID Web site www.usaid.gov Keyword: PVO Registration. The completed submission must include:

(1) Audited financial statements for the most recent fiscal year prepared on an Accrual basis in accordance with GAAP by an independent CPA; an OMB Circular A-133 audit, if applicable; or unaudited financial statements if total

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Support and revenue is less than \$50,000.

(2) Annual report or similar document that describes overall program activities for the same year as the audit, including a list of board members;

(3) AID Form 1550-2, PVO Annual Return; and

(4) AID Form 200-1, PVO Classification Form.

(b) PVOs also must submit any amendments, if applicable, to its articles of incorporation, or bylaws and any changes in the tax-exempt status.

(c) Submission is due within six months after the close of the PVO's fiscal year if the PVO does not prepare an OMB Circular A-133 audit.

(d) Submission is due within nine months after the close of the PVO's fiscal year if the PVO does prepare an OMB Circular A-133 audit.

(e) In addition, each registrant must submit such other information as USAID may reasonably require to determine that the organization continues to meet the Conditions of Registration.

(f) USAID may revise this list of documents from time to time.

(g) Other USAID officials may request information similar to that submitted under these regulations for other purposes; for example, to determine the PVO's eligibility for a particular grant or cooperative agreement.

(h) The completed submission must be sent annually to the USAID Registrar, Office of Private Voluntary Cooperation--American Schools & Hospitals Abroad, 1300 Pennsylvania Avenue, NW., Washington, DC 20523-7600.

Sec. 203.6 IPVO conditions of registration.

There are eight Conditions of Registration for international organizations. The first four Conditions relate to whether an organization meets the definition of an IPVO, as set forth in Sec. 203.2(e), while the last four Conditions establish standards by which the IPVO is evaluated. An applicant must be registered with USAID as an IPVO if USAID finds that the applicant has satisfied all of the following Conditions:

(a) Condition No. 1 (Non-U.S based). Is non-U.S. based in that it:

(1) Is organized under the laws of the country in which it is domiciled; and

(2) Has its headquarters in the same country.

(b) Condition No. 2 (Private). Is a nongovernmental organization (NGO) and solicits and receives cash contributions from the general public.

(c) Condition No. 3 (Voluntary). Is a charitable organization in that it:

(1) Is nonprofit and tax exempt under the laws of its country of domicile and operation;

(2) Is not a university, college, accredited degree-granting institution of education, private foundation, hospital, organization engaged exclusively in research or scientific activities, church, synagogue, mosque or other similar entity organized primarily for religious purposes; and

(3) Is not recognized as a Public International Organization according to USAID's ADS 308.3.

(d) Condition No. 4 (International Program Activities). Conducts, or anticipates conducting, program activities in one or more countries other than its country of origin and that are consistent with the

general purposes of the Foreign Assistance Act and/or Public Law 480.

(e) Condition No. 5 (Board of Directors). Has a governing body:

(1) That meets at least annually;

(2) Whose members do not receive any form of income for serving on the board; and

(3) Whose majority is not composed of the IPVO's officers or staff members.

(f) Condition No. 6 (Financial Viability). That it:

(1) Accounts for its funds in accordance with generally accepted accounting principles (GAAP) or generally accepted accounting standards of IPVO's country of domicile.

(2) Has a sound financial position;

(3) Provides its financial statements to the public upon request; and

(4) Has been incorporated for not less than 18 months.

(g) Condition No. 7 (Program Activities vs. Supporting Services).

That it:

(1) Expends and distributes its funds in accordance with the annual report of program activities;

(2) Does not expend more than 40 percent of total expenses on supporting services; and

(3) In order to maintain its registration, conducts international program activities within the last three years. For example, if an IPVO did not have any international activities for 2004, the current year, or 2003, but did have activities in 2002, then it would remain registered. However, if it did not have any international activities in 2005, USAID would remove it from the Registry in 2006 because for the previous three years (2003, 2004, 2005), it did not conduct any international activities.

(h) Condition No. 8 (General Eligibility). It is not:

(1) Suspended or debarred by an agency of the U.S. Government;

(2) Designated as a foreign terrorist organization by the Secretary of State, pursuant to Section 219 of the Immigration and Nationality Act, as amended; or

(3) The subject of a decision by the Department of State to the effect that registration or a financial relationship between USAID and the organization is contrary to the national defense, national security, or foreign policy interests of the United States.

Sec. 203.7 IPVO initial documentation requirements.

(a) So that USAID can determine whether an applicant meets the Conditions of Registration, an application must be submitted in duplicate and in English. The application instructions and forms packet are available at USAID Web site <http://www.usaid.gov> Keyword: PVO Registration. The completed application must include:

(1) A cover letter with

(i) The reason for applying for registration; and

(ii) A description of current or intended program activities abroad;

(2) Articles of incorporation or charter establishing the IPVO's legal status under the laws of the country in which it is domiciled;

(3) Bylaws or other documents establishing the applicant's corporate structure;

(4) Statement of tax exemption or a comparable document from the country of its origin;

(5) Audited financial statements for the most recent fiscal year prepared on an accrual basis in accordance with generally accepted accounting principles (GAAP) or generally accepted accounting standards for IPVO's country of domicile by an independent certified public accountant (CPA) and in U.S. dollars;

(6) Annual report or similar document that describes overall program activities for the same year as the audit, including a list of board members;

(7) International Executive Contact Data Sheet; and

(8) AID Form 200-1, PVO Classification Form.

(b) In addition, each applicant must submit such other information

as USAID may reasonably require to determine whether the organization meets the Conditions of Registration.

(c) USAID may revise this list of documents from time to time.

(d) Other USAID officials may request information similar to that submitted under these regulations for other purposes; for example, to determine an organization's eligibility for a particular grant or cooperative agreement.

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(e) The completed application must be sent in duplicate to the USAID Registrar, Office of Private Voluntary Cooperation--American Schools & Hospitals Abroad, 1300 Pennsylvania Avenue, NW., Washington, DC 20523-7600.

Sec. 203.8 IPVO annual documentation requirements.

(a) To maintain its registration, each registered IPVO must submit documents and forms, in English, annually. The submission instructions and forms packet are available at USAID Web site www.usaid.gov Keyword: PVO Registration. The completed submission must include:

(1) Audited financial statements for the most recent fiscal year prepared on an accrual basis in accordance with GAAP or generally accepted accounting standards for IPVO's country of domicile by an independent CPA; or unaudited financial statements if total support and revenue is less than \$50,000 in U.S. dollars;

(2) Annual report or similar document that describes overall program activities for the same year as the audit, including a list of board members;

(3) International Executive Contact Data Sheet; and

(4) AID Form 200-1, PVO Classification Form.

(b) IPVOs also must submit any amendments, if applicable, to its articles of incorporation, charter, or bylaws and any changes in the tax-exempt status.

(c) Submission is due within six months after the close of the IPVO's fiscal year.

(d) In addition, each registrant must submit such other information as USAID may reasonably require to determine that the organization continues to meet the Conditions of Registration.

(e) USAID may revise this list of documents from time to time.

(f) Other USAID officials may request information similar to that submitted under these regulations for other purposes; for example, to determine the IPVO's eligibility for a particular grant or cooperative agreement.

(g) The completed submission must be sent annually in English to the USAID Registrar, Office of Private Voluntary Cooperation--American Schools & Hospitals Abroad, 1300 Pennsylvania Avenue, NW., Washington, DC 20523-7600.

Sec. 203.9 Denial of registration.

(a) Notification of denial of registration. Denial of registration by USAID will include written notice to the applicant stating the grounds for the denial.

(b) Reconsideration. Within 30 days after receipt of a denial notification an organization may request that its application be reconsidered. USAID will consider the request and inform the applicant in writing of USAID's subsequent decision.

(c) Resubmission. An organization may at any time submit a new application for registration.

Sec. 203.10 Termination of registration.

(a) Reasons. USAID may terminate registration for any of the following reasons if the registrant:

- (1) Relinquishes its registration status voluntarily upon written notice to USAID;
 - (2) Fails to comply with the documentation requirements or the Conditions of Registration;
 - (3) Uses promotional material or advertisements suggesting that its USAID registration is an endorsement; or
 - (4) Refuses to transfer to USAID any records, documents, copies of such records or documents, or information referred to in this regulation and within the registrant's control within a reasonable time after USAID request them.
- (b) Notification of termination of registration. Termination by USAID will include written notice to the registrant stating the grounds for the termination.
- (c) Reconsideration. Within 30 days after receipt of a termination notification an organization may request that its termination be reconsidered. USAID will consider the request and inform the registrant in writing of USAID's subsequent decision. In addition, USAID may, at its own discretion, reconsider a termination of registration at any time.
- (d) Resubmission. An organization may at any time submit a new application for registration.

Sec. 203.11 Access to records and communications.

- (a) All records, reports, and other documents that are made available to USAID pursuant to this regulation must be made available for public inspection and copying, pursuant to the Freedom of Information Act and other applicable laws.
- (b) Communications from USAID will only be sent to the applicant's or registrant's headquarters.

Sec. 203.12 Cooperative Development Organizations (CDOs).

CDOs are not PVOs for purposes of registration under this part. CDOs as part of the larger PVO community will continue to be listed in the U.S. PVO Registry at www.usaid.gov Keyword: Registry and will continue to be eligible for assistance that is otherwise available to registered U.S. PVOs. In order to be listed in the Registry as a CDO, the CDO must comply with the annual documentation requirements of Sec. 203.5. A CDO applying for registration or registered under this part as a U.S. PVO must comply with the requirements of this part.

Sec. 203.13 Delegation of authority.

The Administrator of USAID or his/her designee may delegate authority to the Assistant Administrator of the Bureau for Democracy, Conflict and Humanitarian Assistance to administer the registration process and, in particular, the authority to waive, withdraw, or amend any or all of the provisions within this part.

Dated: May 5, 2005.
Mary Newton,
Registrar, Private Voluntary Cooperation--American Schools & Hospitals
Abroad, Bureau for Democracy, Conflict and Humanitarian Assistance.
[FR Doc. 05-9544 Filed 5-12-05; 8:45 am]
BILLING CODE 6116-01-P