

| Event by category                        | Fee*   | Unit                                  | Notes   |
|--|--|---------------------------------------|---|
| Still Photography:<br>Individual .....   | No Charge .....                                    | .....                                 | For personal use only; includes hand-held cameras, recorders and small non-commercial tripods.<br>All. professional photography; photographs for which a fee will be received or which are for other than personal use.   |
| Commercial .....                         | \$30 .....   | Application Fee .....                 |   |
|  | \$250 plus Supervisor                              | Per Half Day.                         |   |
| Cinematography:<br>Set Preparation ..... | 30 .....   | Application Fee .....                 | Set up; no filming.   |
| Filming .....                            | \$250 plus Supervision<br>\$1,500 to \$3,900 ..... | Per Whole Day.<br>Per Whole Day ..... |   |
| Slide Production .....                   | \$100 .....  | Per Image .....                       | Sliding scale based on number of people in cast and crew and number of pieces of equipment from 45 people and 6 pieces of equipment = \$1,500 to 200 people = \$3,900; 5 people with carry on equipment = same as still photography.<br>Purchase of USNA photos/slides. |

\*Fees includes only access to sites; additional security charges may be necessary depending upon the site and the number of people participating.

#### § 500.25 Payment of fees.

(a) Unless provided otherwise, all payments due under this subpart must be made by cash, check, or money order (in U.S. funds). Checks and money orders for payment of any fees imposed under this part are to be made payable, in U.S. funds, to the "U.S. National Arboretum." The USNA may provide receipts to requesters for their records or billing purposes. If the USNA enters into an agreement to allow USNA visitors and users to make payment in the form of a credit card, USNA visitors and users who are assessed user fees may pay those fees with a credit card subject to the terms and conditions of such agreement.

(b) Any fees that become past due shall be collected in accordance with 7 CFR part 3.

Done at Washington, DC, this 17th day of November, 2004.

**Edward B. Knipling,**

*Administrator, Agricultural Research Service.*

[FR Doc. 04-27394 Filed 12-17-04; 8:45 am]

BILLING CODE 3410-03-P

## AGENCY FOR INTERNATIONAL DEVELOPMENT

### 22 CFR Part 226

[AID Reg 226]

RIN 0412-AA55

#### Administration of Assistance Awards to U.S. Non-Governmental Organizations; Marking Requirements

**AGENCY:** United States Agency for International Development.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** USAID proposes to amend the primary regulation governing administration of USAID funded assistance awards, by adding a provision requiring marking with the USAID Standard Graphic Identity, of commodities, programs, projects, activities and public communications implemented under USAID funded assistance awards or subawards. While USAID currently requires its contractors to mark US-funded foreign assistance, that requirement does not apply to assistance awards. The purpose of this proposed regulatory addition is to extend USAID marking requirements to assistance awards in order to bring USAID regulations in line with section 641 of the Foreign Assistance Act of 1961, as amended, which requires that "[p]rograms under this Act shall be identified appropriately overseas as 'American Aid,'" as well as to advance the Administration's efforts to ensure that aid recipients overseas understand that all aid, including assistance awards, is foreign assistance from the American taxpayer.

**DATES:** Submit comments on or before February 3, 2005.

**ADDRESSES:** Because security screening precautions have slowed the delivery and dependability of surface mail to USAID/Washington, USAID recommends sending all comments by electronic mail or by fax to the e-mail address or fax number listed directly below (please note, all comments must be in writing to be reviewed).

*Electronic Access and Filing.* You may submit written electronic comments by sending electronic mail [e-mail] to: [markingnprm@usaid.gov](mailto:markingnprm@usaid.gov). Please submit comments as a Microsoft Word file avoiding the use of any

special characters and any form of encryption.

*FAX.* You may submit written comments by FAX to 202-216-3058, addressed to: "C/O John Niemeyer, Attorney Advisor, Office of the General Counsel, USAID/Washington."

*Surface Mail* (again, not advisable due to security screening): John Niemeyer, Attorney Advisor, Office of the General Counsel, Room 6.6.34, USAID/Washington, 1300 Pennsylvania Avenue, NW., Washington, DC 20523.

**FOR FURTHER INFORMATION CONTACT:** John Niemeyer, telephone (202) 712-4776; e-mail [markingnprm@usaid.gov](mailto:markingnprm@usaid.gov).

**SUPPLEMENTARY INFORMATION:** This proposed rule has been reviewed by the Office of Management and Budget (OMB). The period for comments has been established at forty-five (45) days due to the urgency and high visibility of United States Government public diplomacy initiatives, and the shortness and lack of complexity of the proposed rule.

#### Background

The marking of foreign aid as foreign assistance from the American taxpayer was first required during the Marshall Plan when Congress became concerned that the Soviet Union was taking credit for the poorly marked U.S. foreign aid donations to European countries. USAID's framework legislation, the Foreign Assistance Act of 1961, as amended, section 641 requires that all programs, including assistance awards, be identified appropriately overseas as "American aid." While USAID has required its contractors to mark US-funded foreign assistance, that requirement has not been extended to assistance awards. A recent State Department report, "Changing Minds,

Winning Peace: a New Strategic Direction for U.S. Public Diplomacy in the Arab World," both commends and encourages USAID to continue to "become more forthright about branding its activities, so recipients know that they are receiving contributions from the American People." The American People, through USAID, provide billions of dollars of foreign assistance every year in the form of grants and cooperative agreements for which marking has not been required and for which the United States Government and the American taxpayer generally receive no acknowledgement or credit. The proposed rule is intended to ensure that the United States Government and American taxpayer receive credit for funding assistance awards by requiring recipients of USAID-funded assistance awards to mark USAID funded commodities, programs, projects, activities and public communications with the USAID Standard Graphic Identity.

As set forth below, marking is encouraged but not required when USAID is funding less than 10% of the total cost and the total cost is less than \$3,000,000; marking of a size and prominence equal to that of other donors is required when USAID is funding more than \$300,000 dollars or 10% to 49% of the total cost; and marking requirements are fully applicable when USAID is funding 50% or more of the total cost. In order to ensure that marking is done in a safe manner, USAID mission directors in the field are authorized to waive marking requirements if USAID-required marking would pose compelling political, safety or security concerns. All mission director decisions concerning waivers will be made on the basis of the same political, safety or security information used in decisions about the safety and security of United States Government employees in the host country (the so-called "no double standard" policy). USAID contractors have been marking USAID funded commodities, programs, projects and activities for years without any safety issues to date.

Also as set forth below, USAID also encourages, but does not require, recipients of assistance awards to permit use the USAID logo on employee business cards and other personally identifying material, so long as such employees do not identify themselves as employees of USAID, the United States Government, or the United States Government diplomatic mission, and do not claim any diplomatic privileges and immunities. USAID takes the following action as part of the effort to ensure that

the American people are credited for their generosity in providing assistance, and to improve the United States Government's public diplomacy.

#### List of Subjects in 22 CFR Part 226

Foreign aid, Non-profit organizations.

For the reasons set forth above, USAID proposes to amend 22 CFR part 226 as follows:

#### PART 226—ADMINISTRATION OF ASSISTANCE AWARDS TO U.S. NON-GOVERNMENTAL ORGANIZATIONS

1. The authority citation for part 226 is revised to read as follows:

**Authority:** 22 U.S.C. 2381(a) and 2401.

2. Amend § 226.2 by adding the following definitions:

##### § 226.2 Definitions

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*Commodities* means any material, article, supply, goods or equipment.

\* \* \* \* \*

*Public communications* include, but are not limited to, studies, reports, audio visual productions and other informational products; applications, forms, press and promotional materials used in connection with USAID funded programs, projects or activities, including signage and plaques; Web sites/Internet activities; and events such as training courses, conferences, seminars, press conferences and the like.

\* \* \* \* \*

*Standard graphic identity* (Identity) means the USAID logo and brandmark, which will be provided free of charge to recipients of USAID funded grants or cooperative agreements or other assistance awards or subawards.

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*USAID Partner Branding Guide* means a separate, USAID produced publication that will be provided free of charge to recipients of USAID funded grants or cooperative agreements or other assistance awards or subawards, and which details branding guidelines for USAID funded commodities, programs, projects, activities and public communications.

3. Add § 226.91 to subpart F, to read as follows:

##### § 226.91 Marking.

(a) USAID policy is that all commodities, programs, projects, activities and public communications funded by a USAID funded grant or cooperative agreement or other assistance award or subaward must be marked appropriately with the USAID Identity as follows:

(1) If USAID is funding less than 10% of the total cost of the program, project, activity or public communication and the total cost is less than \$3,000,000 as determined by USAID, marking is recommended but not required;

(2) If USAID is funding more than \$300,000 dollars or 10% to 49% of the total cost of the program, project, activity or public communication as determined by USAID, that program, project, activity or public communication must be marked appropriately with the USAID Identity of a size and prominence at least equivalent to that of any marking of any other donor or implementing partner of the USAID partially funded program, project, activity or public communication, as set forth in the USAID Partner Branding Guide to be provided free of charge to the recipient of a USAID funded grant or cooperative agreement or other assistance award or subaward; and

(3) If USAID is funding 50% or more of the total cost of the program, project, activity or public communication as determined by USAID, USAID marking requirements apply to their full extent, as set forth in the USAID Partner Branding Guide to be provided free of charge to the recipient of a USAID grant or cooperative agreement or other assistance award or subaward. These requirements "flow down" to recipients of subawards.

(b) All commodities financed by USAID, including commodities or equipment provided under humanitarian assistance or disaster relief programs, and all other equipment, supplies and other materials funded by USAID, and their export packaging, must be marked appropriately with the USAID Identity.

(c) Program, project or activity sites funded by USAID, including visible infrastructure projects (roads, bridges, buildings, houses) or other programs, projects, activities which are physical in nature (agriculture, forestry, water management), must be marked appropriately with the USAID Identity. Temporary signs or plaques should be erected early in the construction or implementation phase. When appropriate, a permanent sign, plaque or other marking must be installed.

(d) Technical assistance, studies, reports, audio visual productions and other promotional or informational products, and Web sites/Internet activities funded by USAID must be marked appropriately with the USAID Identity and must contain the following disclaimer:

*This study/report/audio/visual product has been produced, and/or its*

contents created, with the financial assistance of USAID. The contents of this study/report/audio/visual product are the responsibility of <name of organization> and do not necessarily reflect the views of USAID or the United States Government.

(e) Events financed by USAID such as training courses, conferences, seminars, exhibitions, fairs, workshops, press conferences and other public communications, must be marked appropriately with the USAID Identity. Unless directly prohibited and as appropriate to the surroundings, recipients should display additional materials such as signs and plaques with USAID and United States Government symbols. In circumstances in which the USAID identity cannot be displayed visually, recipients are encouraged to otherwise acknowledge USAID funding and support.

(f) USAID Mission Directors may waive USAID marking requirements for each USAID funded commodity, program, project, activity or public communication, or in exceptional circumstances may make a blanket waiver by sector, region or country, for up to six months from the date of the waiver, if the Mission Director determines that otherwise USAID-required marking would pose compelling political, safety or security concerns. The waiver determination must be made in a manner commensurate with the United States Government's "no double standard" policy, *i.e.*, on the basis of the same information that applies to determinations of the safety and security of U.S. Government employees in the host country. When making a waiver determination, Mission Directors should consider whether or not to recommend to USAID contractors, grantees and other partners that in addition, they remove their organization's own logos or markings, as part of the determination of the existence of compelling political, safety, or security concerns. Waiver determinations may be extended beyond the initial six months after mission director consultation with the responsible USAID Assistant Administrator.

(g) The USAID Partner Branding Guide, specific marking instructions, and information about Mission Director approved waivers (if any) may be obtained from the Cognizant Technical Officer or the Agreements Officer, who will consult with award recipients on USAID marking requirements after the making of an award. Recipients of USAID-funded grant or cooperative agreement or other assistance award or subaward should retain copies of any

specific marking instructions or waivers in their project, program or activity files. Cognizant Technical Officers will be assigned responsibility to monitor marking requirements.

(h) The marking provision is a material provision of USAID grants or cooperative agreements or other assistance awards or subawards. In cases where the marking requirements have not been complied with, the Agreements Officer will initiate corrective action. Such action may involve informing the recipient of a USAID grant or cooperative agreement or other assistance award or subaward of instances of noncompliance and requesting that it carry out its responsibilities as set forth in this provision. Major or repeated non-compliance with the marking requirements will trigger a notice of non-compliance with a material provision of the USAID grant or cooperative agreement or other assistance award or subaward and an opportunity to cure promptly, with possible termination if the recipient does not address the material noncompliance with marking requirements.

(i) Non-retroactivity: These marking requirements apply to any obligation of USAID funds, including incremental funding, as of [USAID will insert the effective date of this provision in the final rule]. In the event of a waiver of marking requirements, the marking requirements shall apply from the date forward that the waiver is rescinded. In the event of the rescinding of a waiver after the completion of USAID funded programs, projects, activities or public communications, the USAID mission or operating unit with initial responsibility to administer the marking requirements shall make a cost benefit analysis as to requiring USAID marking requirements after the completion of the affected programs, projects, activities or public communications.

(j) The USAID Identity, the USAID Partner Branding Guide, and other marking materials and guidance will be provided at no cost to recipients of USAID grants, cooperative agreements or other assistance awards or subawards. Additional costs associated with marking requirements will be met by USAID if reasonable, allowable and allocable under the cost principles of OMB Cost Circular A-110. The standard cost reimbursement provisions of the grant, cooperative agreement, other assistance award or subaward should be followed when applying for reimbursement of additional marking costs.

(k) If recipients of USAID grants or cooperative agreements or other assistance awards or subawards permit their employees to engage in public speaking, writing, teaching or promotion efforts such as press conferences concerning the USAID funded program, project, activity or public communication, such recipients must have an organizational policy that requires the organization and all its employees to state that they are not representing USAID or the United States Government and that their public speaking, writing, teaching or promotional efforts do not necessarily reflect the views of USAID or of the United States Government.

(l) If recipients of USAID funded grants and cooperative agreements or other assistance awards or subawards have an organizational policy permitting employee use of the USAID Standard Graphic Identity on business cards or other personally identifying material, such a policy must require employee business cards or other personally identifying material to bear the USAID Identity along with the legend "USAID grantee," while prohibiting employees from claiming status as a USAID employee, United States Government employee, or member of the United States diplomatic mission.

Dated: December 15, 2004.

**Fred W. Schieck,**

*Deputy USAID Administrator.*

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## DEPARTMENT OF THE TREASURY

### Office of the Secretary

#### 31 CFR Part 10

[REG-159824-04]

RIN 1545-BE13

#### Regulations Governing Practice Before the Internal Revenue Service

**AGENCY:** Office of the Secretary, Treasury.

**ACTION:** Notice of proposed rulemaking and notice of public hearing.

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**SUMMARY:** This notice proposes amendments to the regulations governing practice before the Internal Revenue Service (Circular 230). These regulations affect individuals who are eligible to practice before the IRS. The proposed modifications set forth standards for *State or local bond opinions*. This document also provides notice of a public hearing regarding the proposed regulations.