

TITLE: CIB 96-02 - Revision of Standard Provision on International Travel for U.S. Organizations

January 11, 1996

MEMORANDUM FOR ALL CONTRACTING OFFICERS AND NEGOTIATORS

FROM: DAA/M, Michael Sherwin, Procurement Executive

SUBJECT: Revision of Standard Provision on International Travel, for U.S. Organizations

CONTRACT INFORMATION BULLETIN 96-2

This CIB revises and replaces the Standard Provision governing International Air Travel and Transportation for U.S. and Non-US organizations.

This revised standard provision clarifies that recipients, as non-official travellers, are not required to obtain country clearance. Notification requirements have been simplified by requiring notification in only two circumstances. This policy was announced in an AID WIDE cable (STATE 286590 dated 12/13/95) and was cleared by all Regional Bureaus, the General Counsel, and the State Department before being approved by the USAID Administrator.

A draft provision was circulated in August throughout the agency. M/OP/P received about 50 responses to that draft. Attached to this CIB is the Comments document which addresses the most common responses we received.

Also attached is the new standard provision which is effective immediately. Handbook 13 and the DGS system will be amended in the near future to incorporate this change. All grants and cooperative agreements should be amended by the Agreement Officer to incorporate this new standard provision. It is imperative that grants and cooperative agreements with U.S. organizations be amended as soon as possible. In addition, all new awards should include this new provision.

Any questions regarding this policy and implementation should be directed to Diana Esposito, M/OP/P, 703 875-1529.

Attachments:

1. Comments Document.
2. Standard Provision for U.S. and Non-U.S. organizations entitled INTERNATIONAL AIR TRAVEL AND TRANSPORTATION (DECEMBER 1995).

COMMENTS

1. All official travellers must have Country Clearance. This is an Embassy requirement; therefore, all grantees must receive country clearance before travelling.

RESPONSE: Grantees and cooperative agreement recipients do not travel in "official" status. The award of a grant or cooperative agreement does not, by virtue of being sponsored with US government funds, make individuals "official." USAID direct hires and contractors are considered official because of the direct supervisory relationship or level of control USAID may apply. Grants and cooperative agreements are, by their very nature, gifts; there is no direct supervision of these individuals or their activities. The difference between "official" and "non-official" rests in the type of relationship and not the nature of the money.

The State Department does not have Country Clearance requirements in their grants or cooperative agreements. Other federal awarding agencies operating overseas do not have this requirement in their regulations.

2. There are regulations and statutes which require that USAID report on all funded activities and personnel working on those activities.

RESPONSE: In accordance with NSDD 38, Section 207 of the Foreign Service Act and the Chief of Mission authority, it is the responsibility of each federal agency to keep the Ambassador fully and currently informed of all government sponsored activities. The changes being made to the Standard Provision on Travel do not in any way affect or change this basic responsibility.

3. The Ambassador is responsible for all Americans and as such can control the number of visitors, must know the names of all American visitors and must approve entry into the country.

RESPONSE: In accordance with NSDD 38, Section 207 of the Foreign Service Act and Chief of Mission authority, the Ambassador is responsible for the direction, coordination and supervision of all executive branch personnel. It was not intended that the Ambassador be burdened with this level of detail for anyone other than those individuals for which he or she has a direct and strict responsibility.

As non-official travellers, recipients are treated like any other private US citizen. If a private citizen has received permission by a foreign government to enter a country, it is not at the discretion of the US Embassy or the USAID Mission to prevent that individual from entering the country.

4. Some local government laws require that the US Embassy request additional approval for individuals travelling on US government funds. Individuals are given clearance by the US Embassy once the local government has provided its consent.

RESPONSE: If a local law specifically addresses the requirement that it provide a separate approval in addition to a visa requirement, for all individuals travelling to support programs which may in part be sponsored by the US government, the USAID Agreement Officer must request a class deviation to this Standard Provision in accordance with 22 CFR 226.4. When requesting approval of the deviation, the Agreement Officer must submit a copy of the local law or the bilateral agreement to the DAA/M who will then coordinate the deviation request with OMB.

5. The USAID Mission and the Embassy must know who is in the country and where they may be located for security reasons. Recipients will not be able to make use of Embassy facilities if they have not been cleared, or at least notified the Embassy that they are present.

RESPONSE: Security is a concern in many of the countries where we are present. This concern, however, does not allow USAID or the Ambassador to control the entry or movement of US private citizens in a foreign country.

If an individual requires the services of the US Embassy, the embassy will assist that individual as a US citizen. This assistance is based on the individual's status as a citizen, not because the individual may be working on a grant supported by USAID.

6. Missions traditionally use Country Clearance as a way to verify that recipients are aware of security problems. Recipients cannot be trusted to simply check State Travel Advisories.

RESPONSE: The State Department Travel Advisories are available to the general public. The Standard Provision has been revised to make a direct reference to these notices, and inform recipient on how to obtain copies. However, the Agreement Officer, the Program Officer or Mission personnel may offer to send additional copies to recipients if there is a concern that the recipient has been unable to obtain copies.

7. Deleting the requirement that recipients notify the Project Officer before travelling will cause confusion for the Project Officers. The Mission and the Project Officers need to determine when it is appropriate for a recipient to work on a program for in-country coordination as part of the overall country workplan.

RESPONSE: When USAID executes a grant or cooperative agreement, we are stating that we are supporting the recipient's program. In executing the agreement, we are basically telling the recipient that they may work in a specific country for an intended purpose. We do not then add the additional requirement that they may only do so at our convenience. Management of our overall country workplans is our responsibility and should not be used to further burden our recipients. Deciding when a recipient may work on its program represents a level of micromanagement which is inappropriate for an assistance instrument.

We have retained the requirement in the Standard Provision that recipients receive budgetary authorization for each trip. A separate written notification will be necessary only if the primary purpose of the trip is to work with USAID personnel, or where the recipient expects USAID personnel to expend a great deal of time to assist them with administrative or programmatic support. Following Comment Number 8 of this document, are sections of the text of the Standard Provision which further define "Prior Approval" and Notification".

8. Recipients often are treated the same as contractors in receiving the same logistic support from the Mission for POVs, HHE, duty free equipment, access to the commissary. Unless recipients relinquish all of these benefits and USG support, they should be required to obtain Country Clearance.

RESPONSE: In supporting a grant or cooperative agreement, USAID is obligated to reimburse the recipient for all costs in accordance with the applicable cost principles. If the recipient has no recourse but to pay duties to bring in equipment and vehicles, those costs should be reimbursable under the award. If we have the capability to assist our recipients by importing the equipment under our bilateral agreements and avoiding those duties, we in essence are benefiting ourselves by reducing the cost of the award. The clear benefit is to the US taxpayer; the recipient's benefit is purely incidental. If the Mission is providing a high level of logistic support, this may be grounds to require that the recipient notify the Mission in accordance with paragraph (b)(1)(ii) of the Standard Provision.

Benefits such as commissary privileges and pouch facilities are the sole discretion of the Embassy. There may be an indirect benefit to the US government in allowing recipients entry to these facilities, such as lower costs based on higher turnover of supplies. However, this is clearly at the Embassy's discretion.

There is no direct link between any of the "benefits" discussed in this paragraph and Country Clearance. It would not be appropriate to eliminate any of these benefits simply because recipients do not need country clearance.