

Answer. AID does not generally issue rules to named persons. The only situation recalled where the issuance of such a rule may be considered to exist is where AID at the request of a commodity supplier modifies, with respect to that supplier, the AID origin requirements with respect to the components of commodities eligible for AID financing. AID decisions to permit modification are published in AID small business memos if they apply to an entire industry rather than to an individual supplier.

Question 3. Please describe the manner in which your agency publishes, or, in accordance with published rule, makes available to public inspection, all final and interim opinions or orders in the adjudication of cases, pursuant to section 3(b) of the APA or other authority.

Answer. In AID operations "adjudication of cases" occurs in contract appeals, suspensions, or debarments of ineligible suppliers, and certifications of voluntary foreign aid agencies.

Opinions and orders in the adjudication of contract appeals are made available to public inspection by the Board of Contract Appeals in accordance with published rule. The pertinent rule (published in 41 CFR 7-60.21), requires that all final orders and decisions of the AID Board of Contract Appeals (except those required for good cause to be held confidential) to be available for public inspection. This requirement has been in AID practice to include decisions issued by the General Counsel concerning the jurisdiction of the Board. AID has never withheld from public inspection any opinion or order in the adjudication of contract appeals. The Executive Secretary of the Board of Contract Appeals maintains a file of opinions and orders which may be inspected upon request by interested persons. Copies of opinions and orders are also sent to publishers for publication in reports of the Commerce Clearing House and in the Government Contractor.

The Agency has established and published in the Federal Register procedures for the suspension or debarment of certain suppliers of commodities and related services. (AID Regulation 8, 29 Fed. Reg. 9534.) Suspension and debarment orders are not required by the regulation to be disseminated to the public. The person affected is, of course, notified, and his name is entered upon a "list of ineligible suppliers." This list is communicated to all banks engaged in financing AID commodities in order to preclude the making of payments to persons on the list. AID may also direct the contents of the list to the attention of others such as aid recipient countries or importers in those countries.

The certification of voluntary foreign aid agencies, which is a statutory prerequisite for their participation in the food for peace and freight subsidy programs (under sec. 216 of the Foreign Assistance Act and sec. 416 of the Agricultural Act of 1949 as amended by sec. 302 of Public Law 480) is governed by AID Regulation 3 (28 Fed. Reg. 2570). Notice of issuance of such certificates and any amendments to them is published in the Federal Register as prescribed by sections 203.4 and 203.5 of AID Regulation 3.

Question 4. In what types of cases does your agency refrain from publishing interim and final opinions or orders where, in the opinion of your agency, good cause requires they be held confidential, pursuant to section 3(b) of the APA or other authority?

Answer. To our knowledge, there have been no such cases.

Question 5. In what circumstances are unpublished opinions and orders cited or used as precedents in other proceedings?

Answer. None.

Question 6. What is the procedure for making available to the general public the records and files, interpretations, and legal opinions of your agency?

Answer. The Agency maintains an Information Staff Office through which inquiries for various types of information and documents are customarily routed. In addition, the Agency has established a Businessmen's Information Center which services the widely differing requests of the business community for specialized types of information and data of special interest to businessmen. A specific inquiry for the files and records of a particular AID office is considered by the head of the office concerned. Each request is examined on the basis of its compatibility with the criteria and considerations set out in the answer to question 7 herein. The Office of General Counsel is consulted for advice concerning the proper response to requests for files and records as well as interpretations and legal opinions. The general thrust of the AID review of a request is to make the documents available unless clear and strong reason dictates another course.

Question 7. What limitations are placed upon the availability of records and files to the general public, either by statute, rule, or practice?