multilateral institution or international organization, these regulations do not apply to such recipients of assistance, except that the agency's agreement with the multilateral institution or international organization shall stipulate that such entity is to make reasonable efforts to ensure that the assistance is not diverted in support of drug trafficking.

Example

The State Department provides \$600,000 to the United Nations for the United Nations Drug Control Program, specifically designating that Government D receive \$150,000 and Corporation E receive \$60,000 for programs in a covered country. Individuals who will receive training are not specifically designated by the State Department. The United Nations is a covered entity based on § 140.4(a)(1)(i); Government D is a covered entity based on §§ 140.4(b) and 140.7(b); Corporation E is not a covered entity under §§ 140.4(b) and 140.7(b) because it has been designated to receive less than \$100,000 in assistance. Participant trainees are not covered individuals because they fall under the exception contained in § 140.7(c) (see also § 140.4(a)(1)(ii)).

# § 140.8 Recipients of scholarships, fellowships, and participant training.

(a) Procedures. Individuals who are located in a covered country and who are proposed recipients of scholarships, fellowships, or participant training are subject to the review procedures, criteria, and procedures concerning violations identified subsequent to obligation set forth in § 140.6. Such review of recipient individuals is in addition to the provisions applicable to the entity providing the assistance.

(b) Certifications. Individuals who are located in a covered country and who are proposed recipients of scholarships, fellowships, or participant training shall also be required to certify prior to approval that, within the last ten years, they have not been convicted of a narcotics offense, have not been engaged in drug trafficking, and have not knowingly assisted, abetted, conspired, or colluded with others in drug trafficking. False certification may subject the assistance recipient to U.S. criminal prosecution under 18 U.S.C. Sec. 1001 and to withdrawal of assistance under these regulations.

#### § 140.9 Non-governmental entities.

(a) Procedures. Section 140.9 applies to private voluntary agencies, educational institutions, for-profit firms, or any other non-governmental entity. A non-governmental entity that is not organized under the laws of the United States shall be subject to the review procedures and criteria set forth in §§ 140.6(a) and (b). A non-governmental entity that is organized under the laws

of the United States shall not be subject to such review procedures and criteria. However, an affected agency shall follow such procedures if the agency has reasonable grounds to suspect that a proposed U.S. non-governmental entity or a key individual of such entity may be or may have been involved in drug trafficking or may have been convicted, within the last ten years, of a narcotics offense. Procedures set forth in § 140.6(c) concerning violations identified subsequent to obligation shall apply to both U.S. and foreign non-governmental entities.

Examples:

(1) A \$100,000 grant to a covered U.S. university for participant training would not be subject to the review procedures and criteria in §§ 140.6(a) and (b). However, a proposed participant would be subject to the review procedures and criteria in §§ 140.6 (a) and (b) as part of the agency's approval process.

(2) A \$100,000 grant to a covered foreign private voluntary agency for participant training would be subject to the review procedures and criteria in §§ 140.6(a) and (b). In addition, each proposed participant would be subject to the review procedures and criteria in §§ 140.6(a) and (b) as part of the agency's approval process.

- (b) Refunds. A clause shall be included in grants, contracts, and other agreements with both U.S. and foreign non-governmental entities requiring that assistance provided to or through such an entity that is found to have been engaged in drug trafficking, as defined in these regulations, shall be subject to refund.
- (c) Certifications. Prior to approval of covered assistance, key individuals (as described in § 140.6(a)(3)) in both U.S. and foreign non-governmental entities shall be required to certify that, within the last ten years, they have not been convicted of a narcotics offense, have not been engaged in drug trafficking and have not knowingly assisted, abetted, conspired, or colluded with others in drug trafficking. False certification may subject the signatory to U.S. criminal prosecution under 18 U.S.C. Sec. 1001.

### §140.10 Intermediate credit institutions.

(a) Treatment as Non-Governmental Entity or as a Foreign Government Entity. Intermediate credit institutions ("ICIs") shall be subject to either the procedures applicable to foreign government entities or those applicable to non-governmental entities, depending on the nature of the specific entity. The Assistant Secretary for International Narcotics Matters or the Assistant Secretary's designee, in consultation with the head of the agency proposing the assistance or the agency head's designee, shall determine (consistent

with the definition of "foreign state" set forth in the Foreign Sovereign Immunities Act, 28 U.S.C. Sec. 1603(a) and made applicable by § 140.5) whether the ICI will be treated as a nongovernmental entity or a foreign government entity.

(b) Refunds. In addition to measures required as a consequence of an ICI's treatment as a non-governmental entity or a foreign government entity, a clause shall be included in agreements with all ICIs requiring that any loan greater than \$1,000 provided to an individual or entity found to have been convicted of a narcotics offense or engaged in drug trafficking, as defined in these regulations, shall be subject to refund or recall.

## § 140.11 Minimum enforcement procedures.

Sections 140.6 through 140.10 represent the minimum procedures that each agency is required to apply in order to implement FAA Section 487. Under individual circumstances, however, additional measures may be appropriate. In those cases, agencies are encouraged to take additional steps, as necessary, to ensure that the statutory restrictions are enforced.

#### §140.12 Interagency appeal procedures.

If the agency proposing the assistance disagrees with a determination by the Country Narcotics Coordinator to withhold assistance or take other measures, the head of the agency, or the agency head's designee, may request that the determination be reviewed by the Assistant Secretary of State for International Narcotics Matters in coordination with other affected bureaus and agencies. The assistance shall continue to be withheld pending resolution of the appeal.

### § 140.13 Notification to foreign entities and individuals.

(a) Unless otherwise determined under § 140.13(b), if a determination has been made that assistance to a foreign entity or individual is to be withheld, suspended, or terminated under these regulations, the agency administering such assistance shall so inform the affected entity or individual. Except as the agency administering such assistance and the Country Narcotics Coordinator may otherwise determine, the entity or individual shall be notified solely of the statutory basis for withholding assistance.

(b) Before such notification, the Country Narcotics Coordinator shall be responsible for determining that notification would not interfere with an on-going criminal investigation. If an