

requirements of 7 CFR 3019.21.

However, FAS will not approve any request for an advance received earlier than 60 days after the date of a previous advance made in connection with the same Program Agreement.

(g) Funds advanced shall be deposited in an interest bearing account until expended. Interest earned on advance of funds must be returned to FAS.

(h) The Cooperating Sponsor shall return to FAS any funds not obligated as of the 180th day after being advanced, together with interest earned on such unexpended funds. Funds and interest shall be returned within 30 days of such date.

(i) The Cooperating Sponsor shall, not later than 10 days after the end of each calendar quarter, submit a financial statement to the Director, PPDED, accounting for all funds advanced and all interest earned.

(j) FAS will pay all other costs for which it is obligated under the Program Agreement by reimbursement. However, FAS will not pay any cost incurred after the final date specified in the Program Agreement.

(k) Program income may be used to further eligible activity objectives.

§ 1599.7 What procedures apply to procuring ocean transportation?

(a) *Cargo preference.* Shipments of commodities are subject to the requirements of sections 901(b) and 901b of the Merchant Marine Act, 1936, regarding carriage on U.S.-flag vessels. A Cooperating Sponsor shall comply with the instructions of FAS regarding the quantity of commodities that must be carried on U.S. flag vessels.

(b) *Freight procurement requirements.* When FAS is financing any portion of the ocean freight, whether on U.S. flag or non-U.S. flag vessels, and the Cooperating Sponsor arranges ocean transportation:

(1) The Cooperating Sponsor shall arrange ocean transportation through competitive bidding and shall obtain approval of all invitations for bids from the Director, CCC-OD.

(2) Invitations for bids shall be issued through the Transportation News Ticker (TNT), New York, and at least one other comparable means of trade communication.

(3) Freight invitations for bids shall include specified procedures for payment of freight, including the party responsible for the freight payments, and expressly require that:

(i) Offers include a contract canceling date no later than the last contract layday specified in the invitation for bids;

(ii) Offered rates be quoted in U.S. dollars per metric ton;

(iii) If destination bagging or transportation to a point beyond the discharge port is required, the offer separately state the total rate and the portion thereof attributable to the ocean segment of the movement;

(iv) Any non-liner U.S. flag vessel 15 years or older offer, in addition to any other offered rate, a one-way rate applicable in the event the vessel is scrapped or transferred to foreign flag registry prior to the end of the return voyage to the United States;

(v) In the case of packaged commodities, U.S. flag carriers specify whether delivery will be direct breakbulk shipment, container shipment, or breakbulk transshipment and identify whether transshipment (including container relays) will be via U.S. or foreign flag vessel;

(vi) Vessels offered subject to Maritime Administration approval will not be accepted; and

(vii) Offers be received by a specified closing time, which must be the same for both U.S. and non-U.S. flag vessels.

(4) In the case of shipments of bulk commodities and non-liner shipments of packaged commodities, the Cooperating Sponsor shall open offers in public in the United States at the time and place specified in the invitation for bids and consider only offers that are responsive to the invitation for bids without negotiation. Late offers shall not be considered or accepted.

(5) All responsive offers received for both U.S. flag and foreign flag service shall be presented to KCCO which will determine the extent to which U.S.-flag vessels will be used.

(6) The Cooperating Sponsor shall promptly furnish the Director, CCC-OD, or other official specified in the Program Agreement, copies of all offers received with the time of receipt indicated thereon. The Director, CCC-OD, or other official specified in the Program Agreement, will approve all vessel fixtures. The Cooperating Sponsor may fix vessels subject to the required approval; however, the Cooperating Sponsor shall not confirm a vessel fixture until advised of the required approval and the results of the Maritime Administration's guideline rate review. The Cooperating Sponsor shall not request guideline rate advice from the Maritime Administration. The Cooperating Sponsor will, promptly after receipt of vessel approval, issue a public notice of the fixture details on the TNT or other means of communication approved by the Director, CCC-OD.

(7) Non-Vessel Operating Common Carriers may not be employed to carry

shipments on either U.S. or foreign-flag vessels.

(8) The Cooperating Sponsor shall promptly furnish the Director CCC-OD, a copy of the signed laytime statement and statement of facts at the discharge port.

(c) *Shipping agents.* (1) The Cooperating Sponsor may appoint a shipping agent to assist in the procurement of ocean transportation. The Cooperating Sponsor shall nominate the shipping agent in writing to the Deputy Administrator, Room 4077-S, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, DC 20250-1031, and include a copy of the proposed agency agreement. The Cooperating Sponsor shall specify the time period of the nomination.

(2) The shipping agent so nominated shall submit the information and certifications required by 7 CFR 17.4 to the Deputy Administrator.

(3) A person may not act as a shipping agent for a Cooperating Sponsor unless the Deputy Administrator has notified the Cooperating Sponsor in writing that the nomination is accepted.

(d) *Commissions.* (1) When any portion of the ocean freight is paid by FAS, total commissions earned on U.S. and foreign flag bookings by all parties arranging vessel fixtures, shall not exceed 2-1/2 percent of the total freight costs.

(2) Address commissions are prohibited.

(e) *Contract terms.* When FAS is paying any portion of the ocean freight, charter parties and liner booking contracts must conform to the following requirements, as applicable:

(1) Packaged commodities on liner vessels shall be shipped on the basis of full berth terms with no demurrage or despatch;

(2) Shipments of bulk liquid commodities may be contracted in accordance with trade custom. Other bulk commodities, including shipments that require bagging or stacking for the account of the vessel, shall be shipped on the basis of vessel load, free out, with demurrage and despatch applicable at load and discharge ports; except that, if bulk commodities require further inland distribution, they shall be shipped on the basis of vessel load with demurrage and despatch at load and berth terms discharge, *i.e.*, no demurrage, despatch, or detention at discharge. Demurrage and despatch shall be settled between the ocean carrier and commodity suppliers at load port and between the ocean carrier and charterers at discharge ports. FAS is not responsible for resolving disputes involving the