

earned on U.S. and non-U.S.-flag bookings by all parties arranging vessel fixtures shall not exceed 2½ percent of the total freight costs.

(4) If a payment is made in violation of this section, CCC may demand dollar refund of the entire amount financed by CCC under the contract.

§ 17.7 Notice of sale procedures.

(a) *Telephonic notice of sale.* The supplier shall, immediately upon making a firm sale, telephone a notice of sale to Pub L. 480 Operations Division, FAS. A sale is considered firm when the supplier has been notified by the importer of an award, even though the contract is conditioned on approval by FAS (see § 17.5(b)(1).) If the supplier fails to furnish a notice of sale within 3 working days after the date of sale, CCC has the right to refuse to finance the sale.

(b) *Sale approval.* (1) Pub. L. 480 Operations Division will notify the supplier by telephone of approval of the notice of sale.

(2) The supplier will prepare Form FAS-359, "Declaration of Sale," and submit it to Pub. L. 480 Operations Division promptly as soon as FAS has provided the CCC Registration Number to the supplier. The supplier or the supplier's authorized representative must sign the form.

(3) Each Form FAS-359 shall cover only a single sale contract. If a sale is made under two or more purchase authorizations, the supplier will prepare separate forms for each purchase authorization.

(4) If any correction is needed to the Form FAS-359, the supplier must immediately notify FAS. If a contract is amended, the supplier should present the original Form FAS-359 for payment along with a copy of the written USDA approval of the contract amendment.

(c) *Sale disapproval.* (1) Pub. L. 480 Operations Division, FAS, will notify the supplier by telephone when a sale is disapproved for financing. The related contract between the supplier and importer shall, for purposes of financing, be considered null and void.

(2) On receipt of a notice of disapproval, the supplier shall promptly notify the importer.

(d) *Contract delivery period.* Price approval is limited to exports made dur-

ing the delivery period stated in the notice of sale or any contract amendment approved by the Pub. L. 480 Operations Division, FAS. If the supplier cannot complete delivery by the terminal delivery date of the contract delivery period, the supplier and the participant or importer shall submit a notice of contract amendment as provided in paragraph (e) of this section. If the supplier fails to comply, § 17.10(d) shall apply.

(e) *Contract amendments.* (1) The supplier and the participant or importer shall each submit a written notice of each contract amendment to the Director immediately after the amendment to the contract is made. This includes not only any change in the contract delivery period or any other terms and conditions of the contract as provided in the information given in the original notice of sale or any amendment thereto, but also any change in any other terms and conditions of the contract.

(2) The notice of contract amendment must contain the following:

(i) A request that USDA approve an amendment to the specifically identified sale contract between (the participant or importer) and (the commodity supplier).

(ii) A statement of what the amendment consists of (as, extension of delivery period through (date)) and a detailed explanation of the reasons for the amendment.

(iii) A statement that the contract amendment has been agreed to by both buyer and seller.

(3) Pub. Law 480 Operations Division, FAS, will notify the supplier as to whether the amendment is approved or disapproved.

(4) The supplier shall furnish a copy of the USDA approval of the amendment with other documentation submitted to obtain payment.

(5) If the supplier fails to furnish notice of a contract amendment to Pub. L. 480 Operations Division, FAS, within 3 working days after the date of such amendment, CCC has the right to refuse to finance the sale or any portion of the sale.

(6) Any amendment must be consistent with the provisions of the purchase authorization and this part and

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must otherwise be acceptable to Pub. L. 480 Operations Division, FAS.

§ 17.8 Ocean transportation.

(a) *General.* (1) This section applies to the financing of ocean freight or ocean freight differential. Ocean freight will be financed by CCC only to the extent specifically provided for in the purchase authorization. The purchase authorization may provide requirements in addition to or in lieu of those specified in this section.

(2) The supplier of ocean transportation must be engaged in the business of furnishing ocean transportation from the United States and must have a person, principal or agent, on whom service of judicial process may be had in the United States.

(3) The quantity of the commodity which must be shipped on privately owned U.S.-flag commercial vessels will be determined by the Director.

(4) The supplier of ocean transportation shall release copies of the ocean bills of lading to the supplier of the commodity promptly upon completion of loading of the vessel.

(5) When CCC finances any part of the ocean freight or the ocean freight differential, the participant must open an operable irrevocable letter of credit for the portion of the ocean freight not financed by CCC. All banking institution charges, such as commissions, expenses, etc., are for the account of the participant. The amount of the letter of credit shall be computed using the information provided in the Form CCC-106. The letter of credit shall provide for sight payment or acceptance of a draft, payable in U.S. dollars, on the basis of the quantities specified in the applicable ocean freight contract. If the supplier of ocean transportation accepts the commodity before receipt of an acceptable letter of credit from a bank, the supplier takes such action at its own risk. This action in itself does not affect eligibility for CCC financing.

(b) *Contracting procedures*—(1) *Invitations for Bids (IFB's).* (i) Public freight "Invitations for Bids" are required in the solicitation of freight offers from all U.S. and non-U.S. flag vessels when CCC is financing any portion of the ocean freight.

(ii) For non-U.S. flag vessels when CCC is not financing any portion of the ocean freight, public freight IFB's are also required unless otherwise authorized by the Director, or unless the participant requires the use of vessels under its flag, the flag of the destination country, or other non-U.S. flag vessels under its control. Vessels considered to be under the control of the participant or the destination country include vessels under time charters, bare boat charters, consecutive voyage charters, or other contractual arrangements for the carriage of commodities which provide guaranteed access to vessels.

(iii) Prior to release to the trade, all freight IFB's must be submitted to the Director for approval. Freight IFB's must be issued by means of Bridge News, New York, plus at least one other means of communication.

(iv) All freight IFB's must:

(A) Specify a closing time for the receipt of offers and state that late offers will not be considered;

(B) Provide that offers are required to have a canceling date no later than the last contract layday specified in the IFB;

(C) Provide the same deadline for receipt of offers from both U.S. flag vessels and non-U.S. flag vessels;

(D) Stipulate the responsibility for each party for payment of any costs not eligible for financing by CCC (in the IFB or the pro forma charter party).

(2) *Competitive bidding.* When CCC is financing any portion of the freight, all offers shall be opened in public in the United States at the time and place specified in the IFB. Offers shall be opened prior to receipt of offers for the sale of commodities as the Director determines appropriate. Only offers which are responsive to the IFB may be considered, and no negotiation shall be permitted.

(3) *Records of offers.* Copies of all offers received must be promptly furnished to the Director, who may require the participant, or its shipping agent, to submit a written certification to the GSM that all offers received (with the times of receipt designated