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7 CFR Ch. XIV (1-1-11 Edition)

CALCULATION OF NET CONTRACT VALUE

CCC will calculate the net contract value by subtracting from the contract value (\$2,025,000) the U.S. customs value of the truck scale (\$20,000) in accordance with § 1493.260(b)(1)(i) and the local costs to be incurred by the U.S. instructor (\$5,000) in accordance with § 1493.260(b)(1)(ii) to equal \$2,000,000.

CCC'S DETERMINATION OF U.S. CONTENT ELIGIBILITY

The imported components and services that are not U.S. services approved for coverage total \$650,000 (*i.e.*, \$149,000 for starters and alternators, \$1,000 for airfare, \$500,000 for freight and insurance; or 32.5 percent of the net contract value of \$2,000,000 (§ 1493.260(b)(1)). Since this is less than 50 percent of the net contract value the transaction meets the U.S. content test (§ 1493.260(d)).

§ 1493.270 Certifications.

(a) *Exporter's signature.* The exporter's signature on documentation submitted to CCC under this subpart, is the exporter's certification that:

(1) There have not been and are no arrangements for any payments in violation of the Foreign Corrupt Practices Act of 1977, as amended, or other U.S. Laws;

(2) All information submitted to CCC is true and correct; and

(3) The exporter is in compliance with this subpart.

(b) *False certification.* False certifications under this subpart may result in the termination of the facility payment guarantee, suspension or debarment, or civil or criminal action.

§ 1493.280 Evidence of export report.

(a) *Report of export.* The exporter is required to provide CCC an evidence of export report for each shipment of goods or provision of services covered under the facility payment guarantee. Each report must be numbered in chronological order and contain the following information in the order prescribed below:

(1) The facility payment guarantee number;

(2) The date goods or services were exported or provided;

(3) The exporter's sale number, bill of lading numbers, or identification of other documents that may be submitted to establish the contract value

of the goods or services exported or provided;

(4) The net contract value of the exported goods or services as determined in accordance with § 1493.260(b)(1);

(5) The amount paid in accordance with the initial payment requirement (§ 1493.230 (c));

(6) A description and dollar value of discounts and allowances, if any;

(7) The exported value of the shipment which is the net contract value of the goods or services exported in paragraph (a)(4) of this section minus:

(i) The initial payment requirement listed in paragraph (a)(5) of this section; and

(ii) The dollar amount of any discounts and allowances listed in paragraph (a)(6) of this section;

(8) The name of the carrier and, if applicable, the name of the vessel;

(9) The final payment schedule showing the payment due dates and amounts of principal, and payment due dates for interest accrual. If the payment schedule is unknown, the exporter must indicate in writing that: "The payment schedule will be provided in an amendment to the evidence of export report when the payment schedule has been determined;"

(10) Written statements that:

(i) The goods exported or services provided were included in the final application for a final commitment as approved by CCC for coverage under the facility payment guarantee and this subpart;

(ii) The specifications and quantity of goods or services exported conform to the information contained in the exporter's application documents for a facility payment guarantee, or if different, that CCC has approved of such changes;

(iii) A letter of credit has been opened in favor of the exporter by the foreign bank shown on the facility payment guarantee to cover the dollar amount of the sale of goods or services exported less the amount paid in accordance with the initial payment requirement and less discounts and allowances; and

(11) The exporter's signature.

(b) *Final report of export.* The final evidence of export report submitted

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under a facility payment guarantee must contain:

(1) A written statement that exports under the facility payment guarantee have been completed;

(2) The information requested in §1493.280(a) for the shipment(s) included in the final report; and

(3) The combined total of all dollar amounts reported under §1493.280 (a) and (b) for all reports.

(c) *Time limit for submission of evidence of export report.* Unless extended by CCC for good cause, the exporter must submit to CCC an evidence of export report:

(1) Within 60 days of the date goods are exported by rail or truck;

(2) Within 30 days of the date goods are exported by any other carrier; or

(3) Within 30 days of the date of export of services.

(d) *Late reports.* If the evidence of export report is not received by CCC within the time period for filing, the facility payment guarantee will become null and void only if and only to the extent that failure to make timely filing resulted, or would likely result, in:

(1) Significant financial harm to CCC;

(2) The undermining of an essential regulatory purpose of the FGP;

(3) The obstruction of the fair administration of the FGP; or

(4) A threat to the integrity of the FGP.

§ 1493.290 Proof of entry.

(a) *Diversion.* The diversion of goods covered by a facility payment guarantee to a country other than that shown on the facility payment guarantee is prohibited, unless expressly authorized by the GSM.

(b) *Records of proof of entry.* Exporters must obtain and maintain records of an official or customary commercial nature and grant authorized USDA officials access to such documents or records as may be necessary to demonstrate the arrival of the goods authorized by the facility payment guarantee. Records demonstrating proof of entry must be in English or be accompanied by a certified or other translation acceptable to CCC. Records ac-

ceptable to meet this requirement include:

(1) For goods: An original certificate, signed by a duly authorized customs or port official of the emerging market, by the importer, by an agent or representative of the vessel or ship line which delivered the goods to the emerging market, or by a private surveyor in the emerging market, or other documentation deemed acceptable by CCC:

(i) Showing that the goods entered the emerging market;

(ii) Identifying the export carrier;

(iii) Describing the goods; and

(iv) Indicating date and place the goods were unloaded in the emerging market.

(2) [Reserved]

§ 1493.300 Notice of default and claims for loss.

(a) *Notice of default.* If the foreign bank issuing the letter of credit fails to make payment pursuant to the terms of the foreign bank letter of credit or related obligation, the exporter or the exporter's assignee must submit a notice of default to CCC as soon as possible, but not later than ten days after the date that payment was due from the foreign bank (the due date). A notice of default must be submitted in writing to the Treasurer, CCC, at the address specified in the Contacts P/R. If the exporter or the exporter's assignee fails to promptly notify CCC of defaults in accordance with this paragraph, CCC may make the facility payment guarantee null and void with respect to any payment(s) applicable to such default. This time limit may be extended only under extraordinary circumstances and if approved by the Controller, CCC. The notice of default must include:

(1) Facility payment guarantee number;

(2) Name of the emerging market;

(3) Name of the defaulting bank;

(4) Payment due date;

(5) Total amount of the defaulted payment due, indicating separately the amounts for principal and interest;

(6) Date of foreign bank's refusal to pay, if applicable; and

(7) Reason for the foreign bank's refusal to pay, if known.