

considered the effective date of the renewed agreement, provided sufficient funds are made available and subject to the Contractor's rights for early termination pursuant to section 652(m) of the act.

(b) *Terms under a Continuing Resolution (CR)*. In the event funds are available under a CR, the terms and conditions of the MSP Operating Agreements shall be in force provided sufficient funds are available to fully meet obligations under MSP Operating Agreements, and only for the period stipulated in the applicable CR. If funds are not appropriated at sufficient levels for any portion of a fiscal year, the terms and conditions of any applicable MSP Operating Agreement may be voided and the Contractor may request termination of the MSP Operating Agreement in accordance with § 295.20(f).

(c) *National security requirements*. Each MSP Operating Agreement shall require the owner or operator of an Eligible Vessel included in that agreement to enter into an Emergency Preparedness Program Agreement pursuant to section 653 of the act.

(d) *Vessel operating requirements*. The MSP Operating Agreement shall require that during the period an Eligible Vessel is included in that Agreement, the Eligible Vessel shall:

(1) *Documentation*. Be documented as a U.S.-flag vessel under 46 U.S.C. chapter 121; and

(2) *Operation*. Be operated exclusively in the U.S.-foreign trade or in mixed foreign and domestic trade allowed under a registry endorsement issued under 46 U.S.C. 12105, and shall not otherwise be operated in the coastwise trade of the United States.

(e) *Limitations*. Limitations on Contractors with respect to the operation of foreign-flag vessels shall be in accordance with section 804 of the act, as amended. The operation of vessels, other than Agreement Vessels, in the noncontiguous trades shall be limited in accordance with service levels and conditions permitted in section 656 of the act.

(f) *Non-Contiguous Domestic Trade*. [Reserved]

(g) *Obligation of the U.S. Government*. The amounts payable as MSP Pay-

ments under a MSP Operating Agreement shall constitute a contractual obligation of the United States Government to the extent of available appropriations.

§ 295.22 Commencement and termination of operations.

(a) *Time frames*. A Contractor that has been awarded a MSP Operating Agreement shall commence operations of the Eligible Vessel, under the applicable agreement or a subsequently renewed agreement, within the time frame specified as follows:

(1) *Existing vessel*. Within one year after the initial effective date of the MSP Operating Agreement in the case of a vessel in existence on that date and after notification to MARAD within 30 days of the Contractor's intent; or

(2) *New building*. Within 30 months after the initial effective date of the MSP Operating Agreement in the case of a vessel to be constructed after that date.

(b) *Unused authority*. In the event of a termination of unused authority pursuant to paragraph (a) of this section, such authority shall revert to MARAD.

§ 295.23 Reporting requirements.

The Contractor shall submit to the Director, Office of Financial and Rate Approvals, Maritime Administration, 400 Seventh St., SW., Washington, DC 20590, one of the following reports, including management footnotes where necessary to make a fair financial presentation [Note: MARAD will accept electronic options (such as facsimile and Internet) for transmission of required information to MARAD, if practicable.]:

(a) *Form MA-172*. Not later than 120 days after the close of the Contractor's semiannual accounting period, a Form MA-172 on a semiannual basis, in accordance with 46 CFR 232.6; or

(b) *Financial Statement*. Not later than 120 days after the close of the Contractor's annual accounting period, an audited annual financial statement in accordance with 46 CFR 232.6 and the most recent vessel operating cost data

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submitted as part of its Emergency Preparedness Agreement.

(Approved by the Office of Management and Budget under Control Number 2133–0525)

[62 FR 37737, July 15, 1997, as amended at 68 FR 62538, Nov. 5, 2003; 69 FR 61451, Oct. 19, 2004]

Subpart D—Payment and Billing Procedures

§ 295.30 Payment.

(a) *Amount payable.* A MSP Operating Agreement shall provide, subject to the availability of appropriations and to the extent the agreement is in effect, for each Agreement Vessel, an annual payment of \$2,100,000 for each fiscal year. This amount shall be paid in equal monthly installments at the end of each month. The annual amount payable shall not be reduced except as provided in paragraph (b) of this section and § 295.31(a)(3).

(b) *Reductions in amount payable.* (1) The annual amount otherwise payable under a MSP Operating Agreement shall be reduced on a pro rata basis for each day less than 320 in a fiscal year that an Agreement Vessel is not operated exclusively in the U.S.-foreign trade or in mixed foreign and domestic trade allowed under a registry endorsement issued under 46 U.S.C. 12105. Days during which the vessel is drydocked or undergoing survey, inspection, or repair shall be considered to be days during which the vessel is operated, provided the total of such days within a fiscal year does not exceed 30 days, unless prior to the expiration of a vessel's 30 day period, approval is obtained from MARAD for an extension of the 30 day provision.

(2) There shall be no payment for any day that a MSP Agreement Vessel is engaged in transporting more than 7,500 tons (using the U.S. English standard of short tons, which converts to 6,696.75 long tons, or 6,803.85 metric tons) of civilian bulk preference cargoes pursuant to section 901(a), 901(b), or 901b of the act, provided that it is bulk cargo.

§ 295.31 Criteria for payment

(a) *Submission of voucher.* For contractors operating under more than

one MSP Operating Agreement, the contractor may submit a single monthly voucher applicable to all its agreements. Each voucher submission shall include a certification that the vessel(s) for which payment is requested were operated in accordance with § 295.21(d) and applicable MSP Operating Agreements with MARAD, and consideration shall be given to reductions in amounts payable as set forth in § 295.30. All submissions shall be forwarded to the Director, Office of Accounting, MAR-330 Room 7325, Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590. Payments shall be paid and processed under the terms and conditions of the Prompt Payment Act, 31 U.S.C. 3901.

(1) Payments shall be made per vessel, in equal monthly installments, of \$175,000.

(2) To the extent that reductions under § 295.30(b) are known, such reductions shall be applied at the time of the current billing. The daily reduction amounts shall be based on the annual amounts in 295.30(a) of this part divided by 365 days (366 days in leap years) and rounded to the nearest cent. Daily reduction amounts shall be applied as follows:

- FY 1997—\$5,753.42
- FY 1998—\$5,753.42
- FY 1999—\$5,753.42
- FY 2000—\$5,737.70
- FY 2001—\$5,753.42
- FY 2002—\$5,753.42
- FY 2003—\$5,753.42
- FY 2004—\$5,737.70
- FY 2005—\$5,753.42

(3) In the event a monthly payment is for a period less than a complete month, that month's payment shall be calculated by multiplying the appropriate daily rate in § 295.31(a)(2) by the actual number of days the Eligible Vessel operated in accordance with § 295.21.

(4) MARAD may require, for good cause, that a portion of the funds payable under this section be withheld if the provisions of § 295.21(d) have not been met.

(5) Amounts owed to MARAD for reductions applicable to a prior billing period shall be electronically transferred using MARAD's prescribed format, or a check may be forwarded to the Maritime Administration, P.O. Box