institutions for obligations financed according to the tenor of the letter of credit;

(2) A separate document specifically identified and referred to in the letter of credit as the agreement under which the foreign bank is obligated to repay the U.S. financial institution on deferred payment terms;

(3) A separate document setting forth the related obligation, or in a duly executed amendment thereto, as having been financed by a U.S. financial institution pursuant to, and subject to, repayment in accordance with the terms of such related obligation; or

(4) A promissory note executed by a foreign bank issuing the letter of credit in favor of the financial institution.

§ 1493.240 Initial application and letter of preliminary commitment.

(a) Initial application. An exporter may apply for a facility payment guarantee by submitting the following information:

(1) A cover sheet with the title: “Application for a Facility Payment Guarantee—Preliminary Commitment”;

(2) The program announcement number;

(3) The emerging market;

(4) The name, contact person, address, and telephone number and, if applicable, facsimile number and E-mail address of:

(i) The exporter;

(ii) The exporter’s registered agent for service of process in the United States;

(iii) The exporter’s assignee, if applicable;

(iv) The importer;

(v) The end-user of the goods or services if other than the importer;

(vi) The foreign bank expected to issue the letter of credit or related obligation;

(vii) The financial institution in the United States expected to provide financing;

(5) A statement on letterhead from a:

(i) Foreign bank indicating an interest in guaranteeing payment, in U.S. dollars, for goods or services to be exported under the facility payment guarantee at least equal to the net contract value listed in paragraph (a)(14) of this section, less the initial payment requirement listed in paragraph (a)(15) of this section; and

(ii) Financial institution in the U.S. indicating an interest in financing the export sales of goods or services under the facility payment guarantee for an amount at least equal to the net contract value listed in paragraph (a)(14) of this section less the initial payment requirement listed in paragraph (a)(15) of this section. The financial institution must state that such financing would not otherwise be available without an FGP payment guarantee;

(6) The period for which credit is being extended to finance the sale of goods or services covered by the facility payment guarantee;

(7) The exporter’s sales number pertinent to this application and a description of the status of the intended sale;

(8) A description (e.g., a process flow diagram) of the agriculture-related facility that will use the goods or services to be covered by the facility payment guarantee and an explanation of how these goods and services will be used to improve handling, marketing, processing, storage, or distribution of agricultural commodities or products;

(9) A brief description of each good or service to be covered by the facility payment guarantee and an explanation of how these goods and services will be used to improve handling, marketing, processing, storage, or distribution of agricultural commodities or products;

(10) The final date for export of goods or services. If applicable, include construction start date, milestones (e.g., installation), and contractual deadline for completion of project;

(11) The contract value for the sale of goods or services and the basis of sale for goods to be exported (e.g., FOB, CFR, CIF);

(12) The description and value of the goods or cost of services listed in paragraph (a)(11) of this section that are not U.S. goods or services;

(13) Identification and cost of, and justification for, those services listed in paragraph (a)(12) of this section for which the exporter requests CCC to provide coverage;

(14) The net contract value in §1493.260(b)(1) obtained by subtracting paragraph (a)(12) of this section from
paragraph (a)(11) of this section, and
adding paragraph (a)(13) of this section;
(15) The amount to be paid in ac-
count with the initial payment require-
ment (§ 1493.230(c));
(16) The description and dollar
amount of discounts and allowances
provided in connection with the sale of
goods or services covered by the facil-
ity payment guarantee;
(17) The facility base value in
§ 1493.260(b)(2) obtained by subtracting
paragraphs (a)(15) and (a)(16) of this
section from paragraph (a)(14) of this
section;
(18) The maximum guaranteed value
under the facility payment guarantee
determined by multiplying the facility
base value listed in paragraph (a)(17) of
this section by the guarantee rate of
coverage announced by CCC in
§ 1493.260(b)(3);
(19) A map or other description of the
facility’s location and distance from
major population centers of neigh-
bordering countries;
(20) For all principal agricultural
commodities or products (inputs) to be
handled, marketed, processed, stored,
or distributed, by the proposed project
after completion, provide:
(i) A list or table identifying such
principal inputs;
(ii) The likely countries of origin for
each input;
(iii) Estimated annual quantities, in
metric tons, of each input listed in
paragraph (a)(20)(i) of this section to be
used by the project for five years from
the final date of export or until the ex-
piration of the facility payment guar-
antee, whichever comes first; and
(iv) An analysis, including price,
cost, and other assumptions (the rea-
sons why U.S. agricultural commodi-
ties or products will be more competi-
tive inputs than commodities or prod-
ucts from other sources, and whether
the projected use of U.S. agricultural
commodities or products depends on
the availability of U.S. export bonus or
credit guarantee programs), of which
inputs listed in paragraph (a)(20)(i) of
this section will represent increased
imports of U.S. agricultural commodi-
ties or products:
(A) To a greater degree than imports
of agricultural commodities or prod-
ucts from other countries;
(B) To or at levels significantly
above those expected in the absence of
the project; and
(C) For a period of five years from
the final date of export or until expira-
tion of the facility payment guarantee,
whichever comes first.
(21) If applicable, a list of agricul-
tural outputs or final products of the
proposed project and:
(i) Projected annual quantities (for
five years or until the expiration of the
facility payment guarantee, whichever
comes first), in metric tons, of each
output to be marketed:
(A) Within the emerging market; and
(B) In any other country:
(ii) Quantities, by country of origin,
of products imported into the emerging
market during the past year which
would compete with such outputs; and
(iii) An analysis of whether products
of the project will significantly dis-
place U.S. exports of similar agricul-
tural commodities or products in any
market;
(22) If applicable, a description of any
arrangements or understandings with
other U.S. or foreign government agen-
cies, or with financial institutions or
entities, private or public, providing fi-
nancing to the exporter in connection
with this export sale, and copies of any
documents relating to such arrange-
ments;
(23) A description of the exporter’s
experience selling goods or providing
services similar to those for which the
exporter seeks to obtain facility pay-
ment guarantee coverage;
(24) A statement of how this project
may encourage privatization of the ag-
gricultural sector, or benefit private
farms or cooperatives, in the emerging
market. Include in the statement the
share of private sector ownership of the
project;
(25) The exporter’s signature.
(b) Application fee. The exporter shall
pay the application fee specified in the
program announcement at the time the
application is submitted. An applica-
tion will not be considered without
payment of the specified fee. The appli-
cation fee is nonrefundable.
(c) Letter of preliminary commitment.
CCC will determine whether, in its
judgment, the project in connection

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with which the exporter seeks a facility payment guarantee is likely to increase exports of U.S. agricultural commodities or products to an emerging market; and whether the project is likely to benefit primarily U.S. agricultural commodities or products as opposed to commodities or products originating in other countries. If necessary, CCC may seek additional information from an applicant prior to making its determination. If CCC determines that an application meets these standards and appears to represent, in CCC’s judgment, the best use of available resources, CCC will respond to the applicant with a letter of preliminary commitment indicating CCC’s interest in issuing a facility payment guarantee conditioned on its approval of the exporter’s final application.

§ 1493.250 Final application and issuance of a facility payment guarantee.

(a) Final application. An exporter who has received a letter of preliminary commitment may, within six months of the date of such letter, submit a final application to CCC for a facility payment guarantee which shall include the following information:

(1) A cover sheet with the title: “Application for a Facility Payment Guarantee—Final Commitment.”

(2) A letterhead statement from the importer’s bank or other documentation confirming the importer has the financial ability to comply with the initial payment requirement in §1493.230(c);

(3) Written evidence of a firm sale signed by the exporter and the importer, specifying at minimum, the following information: Goods or services to be exported, quantities of such items, delivery terms (e.g., FOB, CFR, CIF), delivery period(s), contract value, payment terms, and date of sale. A sales contract may be contingent upon obtaining a facility payment guarantee;

(4) A description of any changes in the information submitted in the preliminary application; and

(5) The exporter’s signature;

(b) Additional information. CCC shall have the right to request the exporter to furnish any other information and documentation it deems pertinent to the evaluation of the exporter’s final application for a final commitment. CCC may request from the exporter an independent engineering study or economic feasibility study relating to the project.

(c) Final commitment letter. After making a favorable determination on the exporter’s submissions, CCC will issue a final commitment letter indicating the applicable exposure fee rate and stating that CCC is prepared to issue a facility payment guarantee upon receiving full payment of the exposure fee within an allotted time. The letter will also indicate the key terms and coverage of the guarantee to be issued. CCC will also inform exporters in writing when it denies their request for a facility payment guarantee.

(d) Exposure fee. The exposure fee is calculated by multiplying the requested guaranteed value (up to the maximum established by CCC’s final commitment letter) by the exposure fee rate. Once the facility payment guarantee is issued to the exporter, CCC will ordinarily not refund the exposure fee. If CCC does not issue a facility payment guarantee, or issues a guarantee for only part of the coverage requested, CCC will make a full or pro rata refund of the exposure fee, as appropriate.

(e) Issuance of the facility payment guarantee. Upon receipt of the exposure fee, CCC will issue a facility payment guarantee.

§ 1493.260 Facility payment guarantee.

(a) CCC’s maximum obligation. CCC will agree to pay the exporter or the exporter’s assignee an amount not to exceed the guaranteed value stipulated on the face of the facility payment guarantee, plus eligible interest, in the event that the foreign bank fails to pay under the foreign bank letter of credit or related obligation. The exact amount of CCC’s liability in the event of default will be determined in accordance with §1493.310(b).

(b) Calculation of maximum guarantee coverage. CCC will determine the maximum amount of its obligation under a facility payment guarantee by calculating a: