

## § 1496.6

at a Great Lakes port, as well as loading ocean going conveyances such as barges and container vans, and

(ii) The commodities will be moved from one transportation conveyance to another at such a facility.

[44 FR 27407, May 10, 1979, as amended at 52 FR 5729, Feb. 25, 1987; 63 FR 11104, Mar. 6, 1998]

### § 1496.6 Data to be used.

(a) CCC will use all available historical and current data as a basis for procurement considerations, including evaluations and decisions regarding the physical facilities and performance of ports. Heavy reliance will be placed upon current port conditions as determined from first hand observations and reports from USDA and other reliable sources.

(b) The primary source of historical data will be documents used in the normal course of conducting business. Sources include contract documents, ocean bills of lading, survey and/or outturn reports made by commercial cargo surveyors, claim settlement agreements, claim payment documents, etc. CCC will utilize only such data and make only those analyses that it believes will provide a valid measure of program performance.

### § 1496.7 Final contract determinations.

The KCCO shall be responsible for making lowest landed cost determinations. KCCO shall provide that information to an Ad Hoc Committee designated by the Administrator, FSA, to review the lowest landed cost determinations as a result of any or all of the factors referred to herein. If, after the committee makes its review and it is recommended that contracts should be awarded based on the additional factors which would override lowest landed cost determinations, these recommendations will be presented to the Contracting Officer for a final decision. These decisions will be fully documented and explained as to the reasons the lowest landed cost was not selected.

## 7 CFR Ch. XIV (1-1-05 Edition)

### PART 1499—FOREIGN DONATION PROGRAMS

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AUTHORITY: 7 U.S.C. 1431(b); 7 U.S.C. 1736o; E.O. 12752.

SOURCE: 61 FR 60515, Nov. 29, 1996, unless otherwise noted.

#### § 1499.1 Definitions.

*Activity*—a Cooperating Sponsor's use of agricultural commodities provided under Program Agreements or use of sale proceeds.

*Agricultural Counselor or Attache*—the United States Foreign Agricultural Service representative stationed abroad, who has been assigned responsibilities with regard to the country into which the commodities provided are imported, or such representative's designee.

*CCC*—the Commodity Credit Corporation.

*Commodities*—agricultural commodities or products.

*Director, P.L. 480-OD*—the Director, Pub. L. 480 Operations Division, Foreign Agricultural Service, USDA.

## Commodity Credit Corporation, USDA

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*Director, CCCPSD*—the Director, CCC Program Support Division, Foreign Agricultural Service, USDA.

*Director, PDD*—the Director, Program Development Division, Foreign Agricultural Service, USDA.

*Deputy Administrator*—Deputy Administrator for Export Credits, Foreign Agricultural Service, USDA.

*Force Majeure*—damage caused by perils of the sea or other waters; collisions; wrecks; stranding without the fault of the carrier; jettison; fire from any cause; Act of God; public enemies or pirates; arrest or restraint of princes, princesses, rulers of peoples without the fault of the carrier; wars; public disorders; captures; or detention by public authority in the interest of public safety.

*General Sales Manager*—General Sales Manager and Associate Administrator, Foreign Agricultural Service, USDA, who is a Vice President, CCC.

*KCCO*—Kansas City Commodity Office, Farm Services Agency, USDA, P.O. Box 419205, Kansas City, Missouri, 64141-6205.

*KCMO/DMD*—Kansas City Management Office/Debt Management Division, Farm Services Agency, USDA, P.O. Box 419205, Kansas City, Missouri, 64141-6205.

*Ocean freight differential*—the amount, as determined by CCC, by which the cost of ocean transportation is higher than would otherwise be the case by reason of the requirement that the commodities be transported on U.S.-flag vessels.

*Program Agreement*—an agreement entered into between CCC and Cooperating Sponsors.

*Program income*—interest on sale proceeds and money received by the Cooperating Sponsor, other than sales proceeds, as a result of carrying out approved activities.

*Recipient agency*—an entity located in the importing country which receives commodities or commodity sale proceeds from a Cooperating Sponsor for the purpose of implementing activities.

*Sale proceeds*—money received by a Cooperating Sponsor from the sale of commodities.

*Section 416(b)*—Section 416(b) of the Agricultural Act of 1949.

*USDA*—the United States Department of Agriculture.

[61 FR 60515, Nov. 29, 1996; 62 FR 2719, Jan. 17, 1997, as amended at 63 FR 59877, Nov. 6, 1998]

### § 1499.2 General purpose and scope.

This part establishes the general terms and conditions governing CCC's donation of commodities to Cooperating Sponsors under the section 416(b) and Food for Progress programs. This does not apply to donations to intergovernmental agencies or organizations (such as the World Food Program) unless CCC and such intergovernmental agency or organization enters into an agreement incorporating this part.

### § 1499.3 Eligibility requirements for Cooperating Sponsor.

A Cooperating Sponsor may be either:

- (a) A foreign government;
- (b) An entity registered with the Agency for International Development (AID) in accordance with AID regulations; or
- (c) An entity that demonstrates to CCC's satisfaction:

(1) Organizational experience and resources available to implement and manage the type of program proposed, *i.e.*, targeted food assistance or sale of commodities for economic development activities;

(2) Experience working in the targeted country; and

(3) Experience and knowledge on the part of personnel who will be responsible for implementing and managing the program. CCC may require that an entity submit a financial statement demonstrating that it has the financial means to implement an effective donation program.

### § 1499.4 Availability of commodities from CCC inventory.

CCC will periodically announce the types and quantities of agricultural commodities available for donation from CCC inventory for the section 416(b) program.

### § 1499.5 Program Agreements and Plans of Operation.

- (a) *Plan of Operation.* (1) Prior to entering into a section 416(b) Program