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§ 1484.22 How are Cooperator program funds allocated?

After determining which applications to recommend for approval, the Commodity Divisions recommend funding levels for the approved applicants within their respective divisions. Applications then compete for funds on the basis of the following allocation criteria (the number in parentheses represents a percentage weight factor). Data used in the calculations for contribution levels, past export performance and past demand expansion performance will cover not more than a 6-year period, to the extent such data is available. The method for applying the following criteria will be described in the Cooperator program announcement in the FEDERAL REGISTER:

- (a) Contribution Level (40%).
- (b) Past Export Performance (20%).
- (c) Past Demand Expansion Performance (20%).
- (d) Future Demand Expansion Goals (10%).
- (e) Accuracy of Past Demand Expansion Projections (10%).

Subpart C—Program Operations

§ 1484.30 How does FAS formalize its working relationship with approved Cooperators?

FAS will notify each applicant in writing of the final disposition of its application. FAS will send a program agreement, allocation approval letter, and a signature card to each approved applicant. The allocation approval letter will specify any special terms and conditions applicable to a Cooperator's program, including the required level of Cooperator contribution. An applicant that accepts the terms and conditions contained in the program agreement and allocation approval letter should so indicate by having its Chief Executive Officer sign the program agreement and submit the signed agreement to the Director, Marketing Operations Staff, FAS, USDA. Final agreement shall occur when the Administrator signs the agreement on behalf of FAS. The application, the program agreement, the allocation approval letter, and this part shall establish the terms and conditions of a Co-

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operator agreement between FAS and the approved applicant.

§ 1484.31 Who acts on behalf of each Cooperator?

The Cooperator shall designate at least two individuals in its organization to sign program agreements, reimbursement claims, and requests. The Cooperator shall submit the signature card signed by those designated individuals and by the Cooperator's Chief Executive Officer to the Director, Marketing Operations Staff, FAS, USDA, prior to the start of the marketing plan year. The Cooperator shall immediately notify the Director of any changes in signatories (e.g., removal or addition of individuals, name changes, etc.), and shall submit a revised signature card accordingly.

§ 1484.32 Must Cooperators follow specific employment practices?

(a) A Cooperator shall enter into written contracts with all overseas employees and shall ensure that all terms, conditions, and related formalities of such contracts conform to governing local law.

(b) A Cooperator shall, in its overseas offices, conform its office hours, work week, and holidays to local law and to the custom generally observed by U.S. commercial entities in the local business community.

(c) A Cooperator may pay salaries or fees in any currency (U.S. or foreign) in conformance with contract specifications. Cooperators are cautioned to consult local laws regarding currency restrictions.

§ 1484.33 Must Cooperators follow certain financial management guidelines?

(a) A Cooperator shall implement and maintain a financial management system that conforms to generally accepted accounting principles.

(b) A Cooperator shall institute internal controls and provide written guidance to commercial entities participating in its activities to ensure their compliance with these provisions. Each Cooperator shall maintain all original records and documents relating to program activities for 5 calendar

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years following the end of the applicable marketing plan year and shall make such records and documents available upon request to authorized officials of the U.S. Government. A Cooperator shall also maintain all documents related to employment, such as employment applications, contracts, position descriptions, leave records, and salary changes; and all records pertaining to contractors. A Cooperator shall also maintain adequate documentation related to the proper disposition of all property purchased by the Cooperator and for which the Cooperator is reimbursed with program funds.

(c) A Cooperator shall maintain its records of expenditures and contributions in a manner that allows it to provide information by marketing plan year, country or region, activity number, and cost category. Such records shall include:

(1) Receipts for all STRE (actual vendor invoices or restaurant checks, rather than credit card receipts);

(2) Original receipts for any other program related expenditure in excess of \$25.00;

(3) The exchange rate used to calculate the dollar equivalent of each expenditure made in a foreign currency and the basis for such calculation;

(4) Copies of reimbursement claims;

(5) An itemized list of claims charged to the Cooperator's FMD account;

(6) Documentation with accompanying English translation supporting each reimbursement claim, including original evidence to support the financial transactions, such as canceled checks, receipted paid bills, contracts or purchase orders, per diem calculations, and travel vouchers; and

(7) Documentation supporting contributions including: the date(s), purpose, and location(s) of each activity for which cash, goods, or services were claimed as a contribution; who conducted the activity; the participating groups or individuals; and the method of computing the claimed contributions. Cooperators must retain, and make available for audit, documentation related to claimed contributions.

(d) Upon request, a Cooperator shall provide to FAS the original documents which support the Cooperator's reim-

bursement claims. FAS may deny a claim for reimbursement if the claim is not supported by adequate documentation.

§ 1484.34 Must Cooperators adhere to specific standards of ethical conduct?

(a) A Cooperator shall conduct its business in accordance with the laws and regulations of the country(s) in which each activity is carried out.

(b) Neither a Cooperator nor its affiliates shall make export sales of agricultural commodities covered under the terms of a project agreement. Neither a Cooperator nor its affiliates shall charge a fee for facilitating an export sale. For the purposes of this paragraph, "affiliate" means any partnership, association, company, corporation, trust, or any other such party in which the Cooperator has an investment, other than a mutual fund. A Cooperator may collect check-off funds and membership fees that are required for membership in the Cooperator's organization.

(c) The Cooperator shall not use program activities or program funds to promote private self interests or conduct private business, except as members of sales teams.

(d) A Cooperator shall select U.S. agricultural industry representatives to participate in activities such as trade teams or trade fairs based on criteria that ensure participation on an equitable basis by a broad cross section of the U.S. industry. If requested, a Cooperator shall submit such selection criteria to FAS for approval.

(e) All Cooperators should endeavor to ensure fair and accurate fact-based advertising. Deceptive or misleading promotions may result in cancellation or termination of a project agreement.

(f) The Cooperator must report any actions or circumstances that have a bearing on the propriety of program activities to the Attache/Counselor and the Cooperator's U.S. office shall report such actions in writing to the appropriate Division Director.

§ 1484.35 Must Cooperators follow specific contracting procedures?

(a) Cooperators have full and sole responsibility for the legal sufficiency of