

§ 1493.260

7 CFR Ch. XIV (1-1-10 Edition)

(i) The amount to be paid in accordance with the initial payment requirement in §1493.230(c); and

(ii) The amount of discounts and allowances; and

(3) Maximum guaranteed value equal to:

(i) A principal amount determined by multiplying the facility base value (as determined in §1493.260(b)(2)) by the guaranteed percentage specified in the program announcement; and

(ii) Interest on such principal amount at the rate specified in the applicable program announcement, not to exceed the investment rate of the most recent Treasury 52-week bill auction in effect at that time.

(c) *Value and cost.* For the purposes of this section:

(1) *Value* means declared customs value of the goods; or, in the absence of specific information regarding declared customs value, the fair market wholesale value of the imported goods in the United States at the time they were acquired by the participant; and

(2) *Cost* means actual amount paid by the exporter for the services in an arms-length transaction; or in the absence of an arms-length transaction, the fair market value of the services at the time the services were provided.

(d) *U.S. content test.* (1) CCC will issue a guarantee only if the following items collectively represent less than 50 percent of the net contract value in §1493.260(b)(1):

(i) The value of imported components (except for raw materials) that are assembled, processed, or manufactured into U.S. goods included in the net contract value;

(ii) The cost of services that are not U.S. services (including freight on foreign flag carriers and transportation insurance registered with foreign agents) that, at the request of the exporter, CCC determines are vital to the success of the project and approves their inclusion in the net contract value;

(2) For purpose of this subsection, minor or cosmetic procedures (e.g., affixing labels, cleaning, painting, polishing) do not qualify as assembling, processing or manufacturing;

(3) For purpose of this subsection, local services which involve costs for

hotels, meals, transportation, and other similar services incurred in the emerging market are not U.S. services.

(e) *Period of guarantee coverage.* The payment guarantee will apply to the period beginning on the date(s) of export(s) and will continue during the credit term specified in the facility payment guarantee. For goods, the period of coverage will also apply from the date on which interest begins to accrue, if earlier than the date of export. The final payments of principal and interest by the foreign bank must come due within the period of guarantee coverage.

(f) *Terms of the CCC facility payment guarantee.* The terms of CCC's coverage will be set forth in the facility payment guarantee and will include the provisions of this subpart, which may be supplemented by any program announcement(s) or notice(s) to participants in effect at the time the facility payment guarantee is approved by CCC.

(g) *Final date to export.* The final date to export will be stated in the facility payment guarantee.

(h) *Ineligible exports.* Goods or services with a date of export prior to the date CCC issues the facility payment guarantee are ineligible for coverage unless approved by the GSM.

(i) *Additional requirements.* The facility payment guarantee may contain such additional terms, conditions, and limitations as are deemed necessary or desirable by the GSM. Such additional terms, conditions or qualifications, as stated in the facility payment guarantee, are binding on the exporter or the exporter's assignee.

(j) *Amendments.* Exporters must notify CCC of any amendments concerning contracts covered by a facility payment guarantee. CCC will determine if the contract amendments will require amendments to the facility payment guarantee. Amending the facility payment guarantee may result in an increase to the exposure fee. Requests made by the exporter to amend the facility payment guarantee so as to change the guaranteed value must have the concurrence of the assignee when an assignment has been made.

(k) *Effective date.* The facility payment guarantee shall become effective

Commodity Credit Corporation, USDA

§ 1493.280

on the date of export of the goods or services.

APPENDIX TO §1493.260—ILLUSTRATION OF FGP COVERAGE OF IMPORTED RAW MATERIALS, COMPONENTS, AND SERVICES THAT ARE NOT U.S. SERVICES

The following example illustrates CCC's regulations and policy options with regard to issuing a payment guarantee for a project which includes imported raw materials, imported components, and services that are not U.S. services:

1. Ten grain trucks and one truck scale are to be exported from the U.S. to an emerging market. The trucks will provide the ability to purchase larger quantities of grain from the U.S. The contract value totals \$2,025,000, cost, insurance and freight (CIF) basis.
2. The fenders, hoods and doors of the trucks have been manufactured and assembled in the U.S. and contain some imported raw materials (sheet metal).
3. Imported components consist of starters and alternators, with a U.S. customs valuation of \$149,000. These items are installed into the trucks in the U.S.
4. The truck scale was imported from Canada into the U.S. with a U.S. customs valuation of \$20,000.
5. A U.S. citizen, will travel on a foreign airline carrier to the emerging market (airfare is \$1,000) to instruct mechanics in repair and maintenance of the trucks. He will be paid a salary for this service and, in addition, will be reimbursed separately for local costs in the emerging market (e.g., hotel, meals, transportation) which are estimated to be \$5,000.
6. The trucks are to be shipped on foreign flag vessels, and the marine insurance is to be placed with a foreign agent. The combined cost of these services that are not U.S. services for which the exporter seeks coverage is estimated to be \$500,000.

CCC'S APPROVAL OF SERVICES THAT ARE NOT U.S. SERVICES

CCC agrees to include in the net contract value the foreign flag freight and marine insurance (\$500,000) and the airfare (\$1,000) of the U.S. instructor (§1493.260(b)(1)).

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));