

## § 1599.5

will be receiving the commodities directly, how to prepare and use them properly;

(11) Established baselines, a timeline, and proposed outcomes that would enable FAS to measure the applicant's progress towards achieving the objectives of the proposed activities and the McGovern-Dole Program, which include:

(i) Increased enrollment and attendance rates, especially for girls;

(ii) Improved student achievement levels through improvements in the learning environment;

(iii) Improved maternal, child and student health and nutrition;

(iv) Attracting non-FAS contributions to development activities;

(v) Enabling community support for infrastructure development; and

(vi) Increased government and community support in education;

(12) If the proposed activities would involve the use of sale proceeds or income:

(i) The process that the applicant would use to sell the requested commodities, including steps the applicant would take to use, to the extent possible, the private sector in the monetization process; and

(ii) The procedures that the applicant would use to assure that sale proceeds and income are received and deposited into a separate, interest-bearing account and disbursed from such account for use only in accordance with the agreement;

(13) A description of any port, transportation, storage, and warehouse facilities that would be used with sufficient detail to demonstrate that they would be adequate to handle the requested commodities without undue spoilage or waste, and, in cases where the applicant proposes to distribute some or all of the requested commodities, a description of how they would be transported from the receiving port to the point at which distribution is made to the beneficiaries;

(14) Any reprocessing or repackaging of the requested commodities that would take place prior to the distribution, sale or barter by the applicant;

(15) The action the applicant would take to ensure that any commodities to be distributed to beneficiaries, rath-

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er than sold, would be imported and distributed free from all customs, duties, tolls, and taxes;

(16) A plan that shows how the requested commodities could be imported and distributed without a disruptive impact upon production, prices and marketing of the same or like products in the country where they will be delivered, and the extent to which any sale or barter of the requested commodities would displace or interfere with any sales that may otherwise be made by the applicant or any other entity in the country where they will be delivered; and

(17) Any additional required items set forth on the FAS Web site at <http://www.fas.usda.gov>.

### § 1599.5 Agreements.

(a) After FAS approves an applicant's proposal, FAS will develop an agreement in consultation with the applicant. The agreement will set forth the obligations of FAS and the participant. A participant must comply with the terms of the agreement to receive assistance.

(b) A participant shall not use donated commodities, sale proceeds, income or FAS-provided funds for any activity or any expenses incurred by the participant prior to the date of the agreement or after the agreement is suspended or terminated, except as approved by FAS.

(c) The agreement will include a budget that sets forth the maximum amounts of sale proceeds and FAS-provided funds that may be expended for various purposes under the agreement. A participant may make adjustments to this budget without prior approval from FAS only as specified in the agreement.

(d) Prior to providing any donated commodities or FAS-provided funds to a participant under an agreement, FAS may require the participant to complete a training program administered by FAS that is designed to ensure that the participant is aware of, and has the capacity to complete, all required reporting and audit functions set forth in this part.

(e) A participant will be prohibited from using FAS-provided funds to acquire goods and services, either directly or indirectly through another party, from certain countries that will be specified in the agreement. Any violation of this provision of the agreement will be a basis for immediate termination by FAS of the agreement in addition to the imposition of any other applicable civil and criminal penalties.

(f) The agreement will prohibit the sale or transshipment of the donated commodities to a country not specified in the agreement for as long as such donated commodities are controlled by the participant.

(g) FAS may enter into a multi-country agreement in which donated commodities are delivered to one country and activities are carried out in another.

(h) FAS may provide donated commodities and FAS-provided funds under a multiyear agreement contingent upon the availability of commodities and funds.

#### § 1599.6 Payments.

(a) If the participant arranges for transportation in accordance with § 1599.7(b)(2), and the participant seeks payment directly, the participant shall, as specified in the agreement, either submit to FAS, or maintain on file and make available to FAS, the following documents:

(1) A signed copy of the completed Form CCC-512;

(2) The original, or a true copy of, each on-board bill of lading indicating the freight rate and signed by the originating carrier;

(3) For all non-containerized cargoes:

(i) A signed copy of the Federal Grain Inspection Service (FGIS) Official Stowage Examination Certificate (Vessel Hold Certificate);

(ii) A signed copy of the National Cargo Bureau Certificate of Readiness (Vessel Hold Inspection Certificate); and

(iii) A signed copy of the National Cargo Bureau Certificate of Loading;

(4) For all containerized cargoes, a copy of the FGIS Container Condition Inspection Certificate;

(5) A signed copy of the liner booking note or charter party covering ocean transportation of the cargo;

(6) In the case of charter shipments, a signed notice of arrival at the first discharge port, unless FAS has determined that circumstances of force majeure have prevented the vessel's arrival at the first port of discharge;

(7) A request by the participant for reimbursement of freight, survey costs other than at load port, and other expenses approved by FAS indicating the amount due and accompanied by a certification from the carrier or other parties that payments have been received from the participant; and

(8) A document on letterhead and signed by an officer or agent of the participant specifying the name of the entity to receive payment; the bank ABA number to which payment is to be made; the account number for the deposit at the bank; the participant's taxpayer identification number; and the type of the account into which the payment will be deposited.

(b) If the participant arranges for transportation in accordance with § 1599.7(b)(2), and the participant has used a freight forwarder, the participant shall cause the freight forwarder to submit the documents specified in § 1599.6(a) in order to receive payment from FAS.

(c) In no case will FAS reimburse a participant for demurrage costs or pay demurrage to any other entity.

(d) If FAS has agreed to pay the costs of transporting, storing, and distributing the donated commodities from the designated port or point of entry, the participant will be reimbursed in the manner set forth in the agreement.

(e) If the agreement authorizes the payment of FAS-provided funds, FAS will pay these funds to the participant on a reimbursement for expenses basis, except as provided in paragraph (f)(1) of this section. The participant shall request the payment of FAS-provided funds to reimburse it for authorized expenses in the manner set forth in the agreement.

(f)(1) A participant may request an advance of the amount of funds specified in the agreement. FAS will not approve any request for an advance if: