

discretion, may extend the period for response up to an additional 30 days. If the Cooperator does not respond to the compliance report within the required time period or, if after review of the Cooperator's response, the Director, CRS, determines that Commodity Credit Corporation may be entitled to recover funds from the Cooperator, the Director, CRS, will refer the compliance report to the Deputy Administrator.

(b) If, after review of the compliance report and response, the Deputy Administrator determines that the Cooperator owes money to FAS, the Deputy Administrator will so inform the Cooperator. The Deputy Administrator may initiate action to collect such amount pursuant to 7 CFR Part 1403, Debt Settlement Policies and Procedures. Determinations of the Deputy Administrator will be in writing and in sufficient detail to inform the Cooperator of the basis for the determination. The Cooperator has 30 days from the date of the Deputy Administrator's initial determination to submit any money owed to Commodity Credit Corporation or to request reconsideration.

[64 FR 52630, Sept. 30, 1999. Redesignated and amended at 65 FR 9995, 9996, Feb. 25, 2000]

**§ 1484.76 Can a Cooperator appeal the determinations of the Deputy Administrator?**

(a) The Cooperator may appeal the determinations of the Deputy Administrator to the Administrator. An appeal must be in writing and be submitted to the Office of the Administrator within 30 days following the date of the initial determination by the Deputy Administrator or the determination on reconsideration. The Cooperator may request a hearing.

(b) If the Cooperator submits its appeal and requests a hearing, the Administrator, or the Administrator's designee, will set a date and time, generally within 60 days. The hearing will be an informal proceeding. A transcript will not ordinarily be prepared unless the Cooperator bears the cost of a transcript; however, the Administrator may have a transcript prepared at FAS's expense.

(c) The Administrator will base the determination on appeal upon informa-

tion contained in the administrative record and will endeavor to make a determination within 60 days after submission of the appeal, hearing, or receipt of any transcript, whichever is later. The determination of the Administrator will be the final determination of FAS. The Cooperator must exhaust all administrative remedies contained in this section before pursuing judicial review of a determination by the Administrator.

**PART 1485—GRANT AGREEMENTS FOR THE DEVELOPMENT OF FOREIGN MARKETS FOR U.S. AGRICULTURAL COMMODITIES**

**Subpart A [Reserved]**

**Subpart B—Market Access Program**

- Sec.
- 1485.10 General purpose and scope.
  - 1485.11 Definitions.
  - 1485.12 Participation eligibility.
  - 1485.13 Application process.
  - 1485.14 Application review and formation of agreements.
  - 1485.15 Operational procedures for brand programs.
  - 1485.16 Contribution rules.
  - 1485.17 Reimbursement rules.
  - 1485.18 Reimbursement procedures.
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  - 1485.20 Employment practices.
  - 1485.21 Financial management.
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  - 1485.23 Evaluation.
  - 1485.24 Compliance reviews and notices.
  - 1485.25 Failure to make required contribution.
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  - 1485.27 Disclosure of program information.
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  - 1485.30 Property standards.
  - 1485.31 Anti-fraud requirements.
  - 1485.32 Program income.
  - 1485.33 Amendment.
  - 1485.34 Noncompliance with an agreement.
  - 1485.35 Suspension, termination, and close-out of agreements.
  - 1485.36 Paperwork reduction requirements.

AUTHORITY: 7 U.S.C. 5623, 5662-5664 and sec. 1302, Pub. L. 103-66, 107 Stat. 330.

SOURCE: 60 FR 6363, Feb. 1, 1995, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 1485 appear at 61 FR 58780, Nov. 19, 1996.

**Subpart A [Reserved]**

**Subpart B—Market Access Program**

SOURCE: 77 FR 29499, May 17, 2012, unless otherwise noted.

**§ 1485.10 General purpose and scope.**

(a) This subpart sets forth the general terms, conditions, and policies governing the Commodity Credit Corporation’s (CCC) operation of the Market Access Program (MAP).

(b)(1) In addition to the provisions of this subpart, other regulations of general application issued by the U. S. Department of Agriculture (USDA), including the regulations set forth in Chapter XXX of this title, “Office of the Chief Financial Officer, Department of Agriculture,” may apply to the MAP and MAP Participants, to the extent that these regulations of general application do not directly conflict with the provisions of this subpart. These include, but are not limited to:

- (i) 7 CFR part 1, subpart A—Official Records
- (ii) 7 CFR part 3—Debt Management
- (iii) 7 CFR part 15, subpart A—Non-discrimination
- (iv) 2 CFR part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- (v) 2 CFR part 417—Government-wide Debarment and Suspension (Non-procurement)
- (vi) 2 CFR part 418—New Restrictions on Lobbying
- (vii) 2 CFR part 421—Requirements for Drug-Free Workplace (Financial Assistance)
- (viii) 48 CFR part 31—Contract Cost Principles and Procedures of the Federal Acquisition Regulations.

(2) In addition, relevant provisions of the CCC Charter Act (15 U.S.C. 714 *et seq.*) and any other statutory provisions that are generally applicable to CCC are also applicable to the MAP and the regulations set forth in this part.

(3) MAP Participants must also comply with Title VI of the Civil Rights Act of 1964 and related civil rights regulations and policies.

(4) Other laws and regulations that apply to MAP Participants include, but are not limited to:

(i) 2 CFR part 25—Universal Identifier and Central Contractor Registration

(ii) 2 CFR part 170—Reporting Subaward and Executive Compensation Information

(iii) 2 CFR part 175—Award Term for Trafficking in Persons

(iv) 2 CFR part 180—OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)

(v) 37 CFR part 401.1—Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements

(vi) Executive Order 13224, as amended, Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism

(c) Under the MAP, CCC may provide grants to eligible U.S. entities to conduct certain marketing and promotion activities aimed at developing, maintaining, or expanding commercial export markets for U.S. agricultural commodities and products. MAP Participants may receive assistance for either generic or brand promotion activities. While activities generally take place overseas, reimbursable activities may also take place in the United States. CCC expects all activities that occur in the United States for which MAP reimbursement is sought to develop, maintain, or expand the commercial export market for the relevant U.S. agricultural commodity in accordance with the MAP Participant’s approved MAP program. When considering eligible nonprofit U.S. trade organizations, CCC gives priority to organizations that have the broadest producer representation and affiliated industry participation of the commodity being promoted.

(d) The MAP generally operates on a reimbursement basis.

(e) CCC’s policy is to ensure that benefits generated by MAP agreements are broadly available throughout the relevant agricultural sector and that no single entity gains an undue advantage. CCC also endeavors to enter into MAP agreements covering a broad

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array of agricultural commodity sectors. The MAP is administered by personnel of the Foreign Agricultural Service (FAS) acting on behalf of CCC.

[77 FR 29499, May 17, 2012, as amended at 79 FR 75997, Dec. 19, 2014]

### § 1485.11 Definitions.

For purposes of this subpart the following definitions apply:

*Activity*—a specific foreign market development effort undertaken by a MAP Participant.

*Administrative expenses or costs*—expenses or costs of administering, directing, and controlling an organization that is a MAP Participant. Generally, this would include expenses or costs such as those related to:

(1) Maintaining a physical office (including, but not limited to, rent, office equipment, office supplies, office décor, office furniture, computer hardware and software, maintenance, extermination, parking, business cards);

(2) Personnel (including, but not limited to, salaries, benefits, payroll taxes, individual insurance, training);

(3) Communications (including, but not limited to, phone expenses, internet, mobile phones, personal digital assistants, email, mobile email devices, postage, courier services, television, radio, walkie talkies);

(4) Management of an organization or unit of an organization (including, but not limited to, planning, supervision, supervisory travel, teambuilding, recruiting, hiring);

(5) Utilities (including, but not limited to, sewer, water, energy);

(6) Professional services (including, but not limited to, accounting expenses, financial services, investigatory services).

*Approval letter*—a document by which CCC informs an applicant that its MAP application for a program year has been approved for funding. This letter may also approve specific activities and contain terms and conditions in addition to the program agreement. This letter requires a countersignature by the MAP Participant before it becomes effective.

*Attaché/Counselor*—the FAS employee representing USDA interests in the foreign country in which promotional activities are conducted.

*Brand participant*—a small-sized U.S. for-profit entity, or a U.S. agricultural cooperative that owns the brand(s) of the U.S. agricultural commodity to be promoted or has the exclusive rights to use such brand(s) and that is participating in the MAP brand promotion program of another MAP Participant. This definition does not include any U.S. agricultural cooperatives that are MAP Participants that apply for MAP funds to implement their own brand programs.

*Brand promotion*—an activity that involves the exclusive or predominant use of a single U.S. company name, or the logo or brand name of a single U.S. company, or the brand of a U.S. agricultural cooperative, or any activity undertaken by a MAP Participant in the brand program.

*CCC*—the Commodity Credit Corporation, including any agency or official of the United States delegated the responsibility to act on behalf of CCC.

*Contribution*—an expenditure made by a MAP Participant, the U.S. industry, or State agency in support of an approved activity. This includes expenditures to be made by entities in the MAP Participant's industry in support of the entities' related promotion activities in the markets covered by the MAP Participant's agreement.

*Credit memo*—a commercial document, also known as a credit memorandum, issued by the MAP Participant to a commercial entity that owes the MAP Participant a certain sum. A credit memo is used when the MAP Participant owes the commercial entity a sum less than the amount the entity owes the Participant. The credit memo reflects an offset of the amount the MAP Participant owes the entity against the amount the entity owes to the MAP Participant.

*Demonstration projects*—activities involving the erection or construction of a structure or facility or the installation of equipment.

*Expenditure*—either payment via the transfer of funds or offset reflected in a credit memo in lieu of a transfer of funds.

*FAS*—Foreign Agricultural Service, USDA.

*FAS Web site*—a Web site maintained by FAS providing information on MAP.

It is currently accessible at [www.fas.usda.gov/mos/programs/map.asp](http://www.fas.usda.gov/mos/programs/map.asp).

*Foreign third party*—a foreign entity that a MAP Participant works with to promote the export of a U.S. agricultural commodity under the MAP program.

*Generic promotion*—an activity that is not a brand promotion but, rather, promotes a U.S. agricultural commodity generally. A generic promotion activity may include the promotion of a foreign brand (*i.e.*, a brand owned primarily by foreign interests and being used to market a commodity or product in a foreign market), if the foreign brand uses the promoted U.S. agricultural commodity or product from multiple U.S. suppliers. A generic promotion activity may also involve the use of specific U.S. company names, logos or brand names. However, in that case, the MAP Participant must ensure that all U.S. companies seeking to promote such U.S. agricultural commodity in the market have an equal opportunity to participate in the activity and that at least two U.S. companies participate. In addition, an activity that promotes separate items from multiple U.S. companies will be considered a generic promotion only if the promotion of the separate items maintains a unified theme (*i.e.*, a dominant idea or motif) and style and is subordinate to the promotion of the generic theme.

*MAP*—the Market Access Program.

*MAP Notice*—Market Access Program notices are documents that CCC issues for informational purposes. These MAP notices are made available electronically at <http://www.fas.usda.gov/mos/programs/mnotice.html>. These notices have no legal effect. They are intended to alert MAP Participants of various aspects of CCC's current administration of the MAP program. For example, CCC issues MAP notices to alert MAP Participants of procedures for requesting advances, applicable federal pay scale rates, lists of economic and trade sanctions against certain foreign countries, reporting formats and computer codes to use with the UES.

*MAP Participant or Participant*—an entity that has entered into a MAP program agreement with CCC.

*Market*—the country or countries targeted by an activity.

*Notification*—a document from the MAP Participant by which the MAP Participant proposes to CCC changes to the activities and/or funding levels in an approved MAP program agreement and/or approval letter.

*Product samples*—a representative part of a larger whole promoted commodity or group of promoted commodities. Product samples include all forms of a promoted commodity (*e.g.*, fresh or processed), independent of the ultimate utilization of the sample. Product samples might be used in support of international marketing activities including, but not limited to, displays, food process testing, cooking demonstrations, or trade and consumer tastings.

*Program agreement*—a document entered into between CCC and a MAP Participant setting forth the terms and conditions of approved activities under MAP, including any subsequent amendments to such agreement.

*Program year*—Unless otherwise agreed in writing between CCC and a MAP Participant, a 12-month period during which a MAP Participant can undertake activities consistent with this subpart and its program agreement and approval letter with CCC.

*Promoted commodity*—a U.S. agricultural commodity the sale of which is the intended result of a promotion activity.

*Sales and trade relations expenditures (STRE)*—expenditures made on breakfast, lunch, dinner, receptions, and refreshments at approved activities; miscellaneous courtesies such as checkroom fees, taxi fares and tips; and decorations for a special promotional occasion.

*Sales team*—a group of individuals engaged in an approved activity intended to result in specific sales.

*Small-sized entity*—a U.S. commercial entity that meets the small business size standards published at 13 CFR part 121, Small Business Size Regulations.

*SRTG*—the acronym for State Regional Trade Group. An SRTG is a non-profit association of state-funded agricultural promotion agencies.

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*Supergrade*—a salary level above the reimbursable salary range generally allowable under MAP, which CCC may approve on a case by case basis. This salary level is available only for certain non-U.S. employees who direct MAP Participants' overseas offices.

*Temporary contractor*—a contractor, typically a consultant or other highly paid professional, that is hired on a short term basis to assist in the performance of an activity.

*Trade team*—a group of individuals engaged in an approved activity intended to promote the interests of an entire agricultural sector rather than to result in specific sales by any of its members.

*UES Web site*—a Web site maintained by FAS through which applicants may apply online to MAP and any other USDA market development program. The Web site is currently accessible at [www.fas.usda.gov/mos/ues/unified.asp](http://www.fas.usda.gov/mos/ues/unified.asp).

*Unified Export Strategy (UES)*—is a standardized online Internet application developed by USDA and available for use by entities to apply to any USDA market development program, including the MAP.

*U.S. agricultural commodity*—any agricultural commodity, including any food, feed, fiber, forestry product, livestock, or insect of U.S. origin or fish harvested from a U.S. aquaculture farm or harvested by a vessel as defined in Title 46 of the United States Code, in waters that are not waters (including the territorial sea) of a foreign country, and any product thereof, excluding tobacco. An agricultural commodity shall be considered to be U.S. origin if it is comprised of at least 50 percent by weight, exclusive of added water, of agricultural commodities grown or raised in the United States.

*USDA*—the United States Department of Agriculture.

*U.S. for-profit entity*—a firm, association, or other entity organized or incorporated, located and doing business for profit in the United States, and engaged in the export or sale of a U.S. agricultural commodity.

### § 1485.12 Participation eligibility.

To participate in the MAP, an entity shall be:

- (a) A nonprofit U.S agricultural trade organization;
- (b) A nonprofit SRTG;
- (c) A U.S. agricultural cooperative;
- or
- (d) A State agency.

### § 1485.13 Application process.

(a) *General application requirements.* CCC will periodically publish a Notice in the FEDERAL REGISTER that it is accepting applications for participation in MAP. Applications shall be submitted in accordance with the terms and requirements specified in the Notice and in these regulations. Applicants are encouraged to submit a UES through the UES Internet Web site, but are not required to do so. Applicants may apply to conduct a generic promotion program and/or a brand promotion program that provides MAP funds to brand participants for branded promotion. An applicant who is a U.S. agricultural cooperative may also apply for funds to conduct its own brand promotion program.

(1) Applicant and program information.

- (i) All applications shall contain:
  - (A) The name, address, and Internet location of the home page of the applicant organization;
  - (B) The name of the applicant's Chief Executive Officer;
  - (C) The name, telephone number, fax number, and email address of the applicant's primary contact person;
  - (D) The name(s) of the person(s) responsible for managing the proposed program;
  - (E) A description of the applicant organization, including the type of organization of the applicant (e.g., nonprofit SRTG), its mission, and the statutory authorities by which it is constituted and under which it operates, if applicable;
  - (F) Tax exempt identification number of the applicant, if applicable;
  - (G) Beginning and ending dates for proposed program year (mm/dd/yy-mm/dd/yy);
  - (H) Dollar amount of CCC resources requested for generic activities;
  - (I) Dollar amount of CCC resources requested for brand activities;
  - (J) Total dollar amount of CCC resources requested;

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(K) Percentage of CCC resources requested for general administrative expenses;

(L) A Dun and Bradstreet DUNS number for the applicant;

(M) A description of the applicant organization's membership and membership criteria;

(N) A list of organizations affiliated with the applicant, including parent organizations, subsidiaries, and partnerships;

(O) A description of the applicant's management and administrative capability;

(P) A description of the applicant's prior export promotion experience;

(Q) Value, in U.S. dollars, of proposed contributions from the applicant or the applicant's proposed contribution stated as a percentage of the total dollar amount of CCC resources requested; and

(R) Value, in U.S. dollars, of proposed contributions from other sources.

(i) [Reserved]

(2) Program justification.

(i) All applications shall contain:

(A) A description of the promoted U.S. agricultural commodity(s), its harmonized tariff classification, the applicable commodity aggregate code (available from the UES Web site) and the percentage of U.S. origin content by weight, exclusive of added water;

(B) A description of the anticipated supply and demand situation for the promoted U.S. agricultural commodity(s);

(C) The volume and value of exports of the promoted U.S. agricultural commodity(s) to the targeted markets for the most recent 3-year period;

(D) If the proposal is for 2 or more years, an explanation why the proposal should be funded on a multi-year basis; and

(E) A certification and, if requested by CCC, a written explanation supporting the certification that any funds received will supplement, but not supplant, any private or third-party funds or other contributions to program activities. An explanation, if one is requested, shall indicate why the applicant is unlikely to carry out the activities without Federal financial assistance. In determining whether Federal funds would supplement or sup-

plant private or third-party funds or contributions, CCC will consider the applicant's prior overall marketing budget in the MAP program from year-to-year, variations in promotional strategies within a country, and new markets.

(ii) [Reserved]

(3) Proposed program's strategic plan.

(i) All applications shall include a strategic plan that contains:

(A) A description of overall long term strategic goals to be advanced by the proposed activities for the ensuing 3-5 years;

(B) An explanation of the organization's strategic planning process and identification of priority target markets, including a summary of proposed budgets by country and commodity aggregate code;

(C) A description of the world market situation for the exported U.S. agricultural commodity(s);

(D) A description of competition from other exporters;

(E) An evaluation plan describing the applicant's goals and the applicant's plans for monitoring and evaluating performance towards achieving these goals. This evaluation plan should set forth specific goals and benchmarks set at regular intervals to be used to identify results against identified constraints and opportunities and to measure progress made in the target market. Evaluation of a proposed MAP program's effectiveness will depend on a clear statement by the applicant of goals, method of achievement, and expected results of programming at regular intervals. The overall goal of the MAP and of individual Participants' programming is to achieve or maintain sales that would not have occurred in the absence of MAP funding. A MAP Participant may modify and resubmit this plan for re-approval at any time during the program year.

(F) For each target country, 5 years or as many years as are available of:

(1) Historical U.S. export data;

(2) U.S. market share; and

(3) MAP funds received by the applicant;

(G) For each target country, 3 years of projected U.S. export data and U.S. market share;

(H) Country strategy, including market constraint(s) impeding U.S. exports (e.g., trade barriers) or opportunities present and the strategy proposed to overcome constraints or take advantage of the opportunities, previous activities in the country, and the projected impact of the proposed program on U.S. exports;

(I) A justification for any proposed overseas office, including a staffing plan listing job titles, position descriptions, salary ranges, any request for approval of supergrade salaries, and an itemized administrative budget;

(J) A description of any demonstration projects, if applicable;

(K) Data summarizing the applicant's historical and projected exports, market share, and MAP budgets of the promoted U.S. agricultural commodity(s);

(L) A written presentation of all proposed activities including:

(1) A short description of the relevant market constraint or opportunity;

(2) A budget for each proposed activity, identifying the source of funds.

(ii) Applications for brand promotion assistance shall also include in their strategic plans:

(A) A description of how the brand promotion program will be publicized to U.S. industry; and

(B) The criteria that will be used to allocate funds to U.S. for-profit entities and U.S. agricultural cooperatives.

(b) CCC may request any additional information that it deems necessary to evaluate an application, including, but not limited to, performance measurement information.

(c) Special rules governing demonstration projects funded with CCC resources.

(1) CCC will consider proposals for demonstration projects, provided:

(i) No more than one such demonstration project per constraint is undertaken within a market;

(ii) The constraint to be addressed in the target market is a lack of technical knowledge or expertise;

(iii) The demonstration project is a practical and cost effective method of overcoming the constraint; and

(iv) A third-party must participate in such project through a written agreement with the MAP Participant.

(d) Universal Identifier and Central Contractor Registration (CCR)

(1) In accordance with 2 CFR Part 25, each entity that applies to the MAP program and does not qualify for an exemption under 2 CFR 25.110 must:

(i) Be registered in the CCR prior to submitting an application or plan;

(ii) Maintain an active CCR registration with current information at all times during which it has an active Federal award or an application or plan under consideration by CCC; and

(iii) Provide its DUNS number in each application or plan it submits to CCC.

(2) [Reserved]

(e) Reporting Subaward and Executive Compensation Information. In accordance with 2 CFR Part 170, each entity that applies to the MAP program and does not qualify for an exception under 2 CFR 170.110(b) must ensure it has the necessary processes and systems in place to comply with the applicable reporting requirements of 2 CFR Part 170 should it receive MAP funding.

#### **§ 1485.14 Application review and formation of agreements.**

(a) General. CCC will, subject to the availability of funds, approve those applications that it considers to present the best opportunity for developing, maintaining, or expanding export markets for U.S. agricultural commodities. The selection process, by its nature, involves the exercise of judgment. CCC's choice of Participants and proposed promotion projects requires that it consider and weigh a number of factors, some of which cannot be mathematically measured—e.g., market opportunity, market strategy, and management capability. CCC may require that an applicant participate in the MAP through another MAP Participant or applicant.

(b) Application review criteria. In assessing the likelihood of success of the applications it receives and deciding which it will approve, CCC will follow results-oriented management principles and consider the following criteria:

(1) The effectiveness of program management;

(2) Soundness of accounting procedures;

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(3) The nature of the applicant organization. With respect to nonprofit U.S. trade organizations, preference will be given to those organizations with the broadest base of producer representation of and affiliated industry participation for the commodity being promoted;

(4) Prior export promotion experience;

(5) Appropriateness of staffing;

(6) Adequacy of the applicant's strategic plan in the following categories;

(i) Description of target market conditions;

(ii) Description of and plan for addressing market constraints and opportunities;

(iii) Breadth of industry participation in strategic planning process;

(iv) Strategic prioritization identified in proposed plan;

(v) Export volume and value and market share goals in each target country;

(vi) Description of evaluation plan and suitability of the plan for performance measurement; and

(vii) Past program results and/or evaluations, including program success stories.

(c) Allocation factors. CCC determines which applications to approve and develops preliminary recommended funding levels for each approved application based on the following factors, in addition to those in paragraph (b) of this section. CCC determines final funding levels after allocating available funds to approved applications on the basis of criteria that will be fully described in each program year's MAP announcement in the FEDERAL REGISTER:

(1) Size of the budget request in relation to projected value of exports;

(2) Where applicable, size of the budget request in relation to actual value of exports in prior years;

(3) Where applicable, Participant's past projections of exports compared with actual exports;

(4) Level of contributions by the applicant and by all other sources;

(5) Market share goals in target country(ies);

(6) The percentage by weight, exclusive of added water, of U.S. agricul-

tural commodities contained in the promoted products;

(7) The degree of value-added processing in the United States; and

(8) Proposed MAP-funded general administrative and overhead costs compared to proposed MAP-funded direct promotional costs.

(d) Approval decision.

(1) CCC will approve those applications that it determines best satisfy the criteria and factors specified above.

(2) Notification of decision. CCC will notify each applicant in writing of the final disposition of its application.

(e) Formation of agreements. CCC will send a program agreement (or amendment to an existing program agreement), an approval letter, and a signature card to each approved applicant. The program agreement or amendment and the approval letter will outline which activities and budgets are approved and will specify any special terms and conditions applicable to a MAP Participant's program, including any requirements with respect to contributions and program evaluations. An applicant that decides to accept the terms and conditions contained in the program agreement or amendment and the approval letter must so indicate by having its Chief Executive Officer (CEO) or designee sign the program agreement or amendment and the approval letter and submit these to CCC. Final agreement shall occur when the program agreement or amendment and the approval letter are signed by both parties.

(f) Signature cards. The MAP Participant shall designate at least two individuals in its organization to sign program agreements and amendments, approval letters, reimbursement claims, and advance requests. The MAP Participant shall submit the signature card signed by those designated individuals and by the MAP Participant's CEO to CCC. The Participant shall immediately notify CCC of any changes in signatories and shall submit a revised signature card accordingly.

(g) UES ID and passwords. CCC will provide each MAP Participant with IDs and passwords for the UES Web site, as

necessary. MAP Participants shall protect these IDs and passwords in accordance with USDA's information technology policies that CCC will provide to MAP Participants. MAP Participants shall immediately notify CCC whenever a person who possesses the ID and password information no longer needs such information or a person who is not authorized gains such information.

(h) A MAP Participant through which small-sized U.S. for-profit entities are participating in the MAP program shall obtain annual certifications from all such entities that they are small-sized entities or U.S. agricultural cooperatives as defined in these regulations. The Participant shall retain these certifications in accordance with the recordkeeping requirements of this subpart.

(i) Changes to activities and funding.

(1) Adding a new activity.

(i) A MAP Participant may not conduct a new activity without first obtaining an approved activity budget for such change. To request approval of such activity budget, the MAP Participant shall submit a notification to CCC.

(ii) A notification for a new activity shall provide an activity justification and identify any related adjustments to the approved strategic plan, including changes in market, constraint, or opportunity that the activity proposes to address. The notification shall contain the activity description, the proposed budget, and a justification of transfer of funds.

(iii) After receipt of the notification, CCC will inform the MAP Participant via the UES Web site whether the requested budget is approved.

(2) Modifying existing activities and their funding levels.

(i) A MAP Participant desiring to increase the funding level for existing, approved activities addressing a single constraint or opportunity by more than \$25,000 or 25 percent of the approved funding level, whichever is greater, must first submit a notification explaining the adjustment to CCC before making such change.

(ii) A MAP Participant may make significant adjustments below that threshold to the funding levels for ex-

isting, approved activities without prior notification to CCC, only if it submits a notification explaining the adjustments to CCC no later than 30 days after the change. Minor adjustments to existing, approved activities and/or funding levels do not require notification.

(iii) Notifications shall describe the activity, changes to the activity, the existing funding level, the proposed funding level, and a justification for transfer of funds, if applicable.

#### **§ 1485.15 Operational procedures for brand programs.**

(a) Where CCC approves an application by a MAP Participant to run a brand promotion program that will include brand Participants, the MAP Participant shall establish brand program operational procedures. The MAP Participant annually shall submit to CCC for approval its proposed brand program operational procedures for such program year. CCC will notify all new and existing MAP Participants in writing in each Participant's annual approval letter and through the FAS Web site as to applicable submission dates for and dates for approvals of brand program operation procedures. Such procedures shall include, at a minimum, a brand program application, application procedures, application review criteria, brand participant eligibility requirements, a participation agreement, reimbursement requirements, compliance requirements, reporting and recordkeeping requirements, employment practices, financial management requirements, contracting procedures, and evaluation requirements.

(b) The MAP Participant shall not enter into any participation agreements with brand participants nor shall it implement any MAP brand activities for the applicable program year unless and until CCC has communicated in writing its approval of the proposed operational procedures to the MAP Participant.

(c) Participation agreements between MAP Participants and brand participants. Where CCC approves a MAP Participant's application to run a brand promotion program that will include

brand participants, the MAP Participant shall enter into participation agreements with brand participants. These agreements must:

(1) Specify a time period for such brand promotion and require that all brand promotion expenditures be made within the MAP Participant's approved program year;

(2) Make no allowance for extension or renewal;

(3) Limit reimbursable expenditures to those made in countries and for activities approved in the brand participant's activity plan;

(4) Specify the percentage of promotion expenditures that will be reimbursed, reimbursement procedures, and documentation requirements;

(5) Include a written certification by the brand participant that it either owns the brand of the product it will promote or has exclusive rights to promote the brand in each of the countries in which promotion activities will occur;

(6) Require that all product labels, promotional material, and advertising will identify the origin of the U.S. agricultural commodity as "American", "Product of the United States of America", "Product of the U.S.", "Product of the U.S.A.", "Product of America", "Grown in the United States of America", "Grown in the U.S.", "Grown in the U.S.A.", "Grown in America", "Made in the United States of America," "Made in the U.S.", "Made in the U.S.A.", "Made in America", or product of, grown in or made in any state or territory of the United States of America spelled out in its entirety, or other U.S. regional designation if approved in advance by CCC; that such origin identification will be conspicuously displayed in a manner easily observed as identifying the origin of the product; and that such origin identification will conform, to the extent possible, to the U.S. standard of 1/8 inch (.42 centimeters) in height based on the lower case letter "o". The use of the above terms as a descriptor or in the name of the product (e.g., Texas style chili, Bob's American Pizza) does not satisfy the product origin requirement. Phrases "product of", "grown in" or "made in" are encouraged, but not required. A MAP Participant may re-

quest an exemption from this requirement on a case-by-case basis. All such requests shall be in writing and include justification satisfactory to CCC that this labeling requirement would hinder a MAP Participant's promotional efforts. CCC will determine, on a case by case basis, whether sufficient justification exists to grant an exemption from the labeling requirement. In addition, CCC may temporarily waive this requirement where CCC has determined that such labeling will likely harm sales rather than help them. Such determinations will be announced to MAP Participants via a MAP notice issued on FAS' Web site;

(7) Include a written certification by the brand participant that it is either a small-sized entity as defined in this subpart or a U.S. agricultural cooperative;

(8) Require that the brand participant submit to the MAP Participant a statement certifying that any Federal funds received will supplement, but not supplant, any private or third party funds or other contributions to program activities; and

(9) Require the brand participant to maintain all original records and documents relating to program activities for 5 calendar years following the end of the applicable program year and make such records and documents available upon request to authorized officials of the U.S. Government.

(d) MAP Participants may not provide assistance to a single entity including a entity reincorporated or re-organized under the same or different name if the reincorporated or re-organized entity is substantially similar to the pre-existing entity, for brand promotion in a single country for more than 5 years. Such 5 years do not need to be consecutive. Such 5-year period shall not begin prior to the 1994 program year or the brand participant's first program year, whichever is later. In limited circumstances, CCC may waive the 5 year limitation if CCC determines that further assistance is in the best interests of the MAP. CCC shall, at its discretion, decide whether a reincorporated or re-organized entity is substantially similar to the pre-existing entity for purposes of applying this 5-year rule. Brand participants'

participation in certain international trade shows in foreign countries will not be considered when determining such brand participants' time in country for purposes of the 5 year graduation requirement. Such shows must meet two requirements: They are food or agricultural shows, with no less than 30% of exhibitors selling food or agricultural products, and they are international shows, meaning they target buyers, distributors and the like from more than one foreign country and no less than 15% of each show's visitors are from countries other than the host country. CCC will compile a list of international trade shows that CCC exempts from the graduation requirement and such list will be announced to MAP Participants via a MAP notice issued on FAS' Web site.

**§ 1485.16 Contribution rules.**

(a) In MAP generic promotion programs, a MAP Participant shall contribute a total amount in goods, services, and/or cash equal to at least 10 percent of the value of resources to be provided by CCC for all generic promotion activities proposed to be undertaken by the MAP Participant.

(b) In MAP brand promotion programs, a MAP Participant conducting its own brand promotion or a brand participant shall contribute at least 50 percent of the total eligible expenditures made on each approved brand promotion.

(c) A MAP Participant must use its own funds and may not use MAP program funds to pay any administrative costs of the MAP Participant's U.S. office(s), including legal fees, except as set forth in this subpart. Where the MAP Participant uses its own funds to pay for administrative costs, such costs may be counted in calculating the amount of contributions the MAP Participant contributes to MAP generic or brand promotion programs.

(d) Eligible contributions.

(1) In calculating the amount of contributions that it will make, and the contributions that the U.S. industry (including expenditures to be made by entities in the applicant's industry in support of the entities' related promotion activities in the markets covered by the applicant's application) or

State agency will make, the MAP applicant may include the costs listed under paragraph (d)(2) of this section if:

(i) Expenditures will be made in furtherance of an approved activity, and

(ii) The contributor has not been and will not be reimbursed by any source for such costs.

(2) Subject to paragraph (d)(1) of this section, as well as applicable cost principles (e.g., 2 CFR Parts 220, 225, and 230) to the extent these principles do not directly conflict with the provisions of this subpart, eligible contributions are:

- (i) Cash;
- (ii) Compensation paid to personnel;
- (iii) The cost of acquiring materials, supplies or services;
- (iv) The cost of office space;
- (v) A reasonable and justifiable proportion of general administrative costs and overhead;
- (vi) Payments for indemnity and fidelity bond expenses;
- (vii) The cost of business cards that target a foreign audience;
- (viii) The cost of seasonal greeting cards;
- (ix) Fees for office parking;
- (x) The cost of subscriptions that are of a technical, economic, or marketing nature and that are relevant to the approved activities of the MAP Participant;
- (xi) The cost of activities conducted overseas;
- (xii) Credit card fees;
- (xiii) The cost of any independent evaluation or audit that is not required by CCC to ensure compliance with program agreement or regulatory requirements;
- (xiv) The cost of giveaways, awards, prizes and gifts;
- (xv) The cost of product samples;
- (xvi) Fees for participating in U.S. government sponsored or endorsed export promotion activities;
- (xvii) The cost of air and local travel in the United States;
- (xviii) Payment of employee's or contractor's share of personal taxes;
- (xix) STRE and the cost associated with trade shows, seminars, and entertainment conducted in the United States;

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(xx) Other administrative expenses (e.g., supervisory travel from the U.S. to an overseas office); and

(xxi) The cost of any activity expressly listed as reimbursable in this subpart.

(3) The following are not eligible contributions:

(i) Any portion of salary or compensation of an individual who is the target of an approved promotional activity;

(ii) Any expenditure, including that portion of salary and time spent, related to promoting membership in the Participant organization (sometimes referred to in the industry as “backsell”);

(iii) Any land costs other than allowable costs for office space;

(iv) Depreciation;

(v) The cost of refreshments and related equipment provided to office staff;

(vi) The cost of insuring articles owned by private individuals;

(vii) The cost of any arrangement that has the effect of reducing the selling price of a U.S. agricultural commodity;

(viii) The cost of product development, product modifications, or product research;

(ix) Slotting fees or similar sales expenditures;

(x) Membership fees in clubs and social organizations; and

(xi) Any expenditure for an activity prior to CCC’s approval of that activity.

(4) CCC shall determine, at CCC’s discretion, whether any cost not expressly listed in this section may be included by the MAP Participant as an eligible contribution.

**§ 1485.17 Reimbursement rules.**

(a) A MAP Participant may seek reimbursement for an eligible expenditure if:

(1) The expenditure was made in furtherance of an approved activity; and

(2) The Participant has not been and will not be reimbursed for such expenditure by any other source.

(b) Subject to paragraphs (a) and (d) of this section, as well as applicable cost principles (e.g., 2 CFR Parts 220, 225, and 230) to the extent these prin-

ciples do not directly conflict with the provisions of this subpart, for either brand or generic promotion activities, CCC will reimburse, in whole or in part, the cost of:

(1) Production and placement of advertising, in print, electronic media, billboards, or posters, which may include advertising the availability of price discounts, except that advertising associated with a coupon or price discount for the MAP promoted product is not reimbursable. If advertising is related to both coupons or price discounts for products other than the MAP Participant’s promoted products as well as for MAP-promoted products, expenditures for such advertising will not be reimbursed in whole or in part (e.g., expenditures may not be prorated and submitted for reimbursement). Electronic media includes, but is not limited to, radio, television, electronic mail, internet, telephone, text messaging, and podcasting;

(2) Production and distribution of banners, recipe cards, table tents, shelf talkers, and other similar point of sale materials;

(3) Direct mail advertising;

(4) In-store and food service promotions, product demonstrations to the trade and to consumers, and distribution of product samples (but not the purchase of the product samples);

(5) Temporary displays and rental of space for temporary displays;

(6) Expenditures, other than travel expenditures, associated with seminars and educational training, whether conducted in the United States or outside the United States;

(7) Subject to §1485.17(b)(18), expenditures, other than travel expenditures, associated with retail, trade and consumer exhibits and shows, whether held outside or inside the United States, including participation fees, booth construction, transportation of related materials, rental of space and equipment, and duplication of related printed materials. However, with regard to non-travel expenditures associated with retail, trade and consumer exhibits and shows held inside the United States, such expenditures are reimbursable only if the exhibit or show is: (1) a food or agricultural show with no less than 30% of exhibitors

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selling food or agricultural products, (2) an international show that targets buyers, distributors and the like from more than one foreign country and no less than 15% of its visitors are from countries other than the host country, and (3) an exhibit or show that the MAP Participant has not participated in within the last three years using funds from a source other than the MAP. CCC will compile a list of approved retail, trade and consumer exhibits and shows held inside the United States for which MAP reimbursement is available and such list will be announced to MAP Participants via a MAP notice issued on FAS' Web site;

(8) Subject to §1485.17(b)(18), international travel expenditures, not to exceed the full fare economy rate, including any fees for modifying the originally purchased airline ticket, per diem, passports, visas and inoculations, as allowed under the U.S. Federal Travel Regulations (41 CFR parts 301 through 304), for no more than two representatives of a single brand participant (or MAP Participant directly running its own brand program) to exhibit their company's (or cooperative's) products at a retail, trade, or consumer exhibit or show held outside the United States. Representatives may include employees and board members of private companies, employees or members of cooperatives, or any broker, consultant, or marketing representative contracted by the company or cooperative to represent the company or cooperative in sales transactions;

(9) Subscriptions that are of a technical, economic, or marketing nature and that are relevant to the approved activities of the MAP Participant;

(10) Demonstrators, interpreters, translators, receptionists, and similar temporary workers who help with the implementation of individual promotional activities, such as trade shows, in-store promotions, food service promotions, and trade seminars;

(11) Giveaways, awards, prizes, gifts and other similar promotional materials, subject to such reimbursement limitation as CCC may determine and announce in writing to MAP Participants via a MAP notice issued on FAS' Web site. Reimbursement is available only when: (1) The items are described

in detail with a per unit cost in an approved strategic plan and (2) distribution of the promotional item is not contingent upon the consumer, or other target audience, purchasing a good or service to receive the promotional item;

(12) The design and production of packaging, labeling or origin identification, to be used during the program year in which the expenditure is made, if such packaging, labeling or origin identification is necessary to meet the importing requirements of a foreign country;

(13) The design, production, and distribution of coupons for products other than the MAP Participant's promoted products. If such activities include both coupons or price discounts for products other than the MAP Participant's promoted products, expenditures for such activities will not be reimbursed in whole or in part (e.g., expenditures may not be prorated and submitted for reimbursement);

(14) An audit of a MAP Participant as required by Office of Management and Budget Circular A-133 if the MAP is the MAP Participant's largest source of Federal funding;

(15) The translation of written materials as necessary to carry out approved activities;

(16) Expenditures associated with developing, updating, and servicing Web sites on the Internet that clearly target a foreign audience;

(17) International travel expenditures, not to exceed the full fare economy rate, including any fees for modifying the originally purchased airline ticket, per diem, passports, visas and inoculations, as allowed under the U.S. Federal Travel Regulations (41 CFR parts 301 through 304), incurred for a foreign trade mission conducted outside the United States that is an activity under an approved branded program and that has met the following conditions:

(i) Trade mission travel for company (or cooperative) representatives was identified as a separate approved activity in the MAP Participant's UES;

(ii) The trade mission included representatives, as defined in §1485.17(b)(8), from a minimum of five

different companies (or cooperatives), and no more than two representatives from each participating company (or cooperative);

(iii) The appropriate FAS overseas office supported the trade mission by dedicating meaningful funding or other resources (such as facilities or staff time) to the activity; and

(iv)(A) The MAP Participant with the approved brand program produced an itinerary or agenda for the trade mission that demonstrated that company (or cooperative) representatives would be engaged for a minimum of 6 hours per day (except for the first and last days of the mission) in trade mission activities that include, at a minimum, each of the following:

(1) A product showcase where the FAS overseas office approved an invitation list of qualified buyers;

(2) Pre-arranged one-on-one business meetings; and

(3) Evaluation and feedback sessions with FAS staff and trade mission sponsors.

(B) Reimbursement is conditional on the MAP Participant having notified in writing the Attaché/Counselor in the destination country in advance of the travel;

(18) Where USDA has sponsored or endorsed a U.S. pavilion at a retail, trade and consumer exhibit or show, whether held outside or inside the United States, MAP funds may be used to reimburse the travel and/or non-travel expenditures of only those MAP Participants located within the U.S. pavilion. Such expenditures must also adhere to the standard terms and conditions of the U.S. pavilion organizer. Upon written request, CCC may temporarily waive this subsection, on a case by case basis, where: the trade show is segregated into product pavilions, or a company's distributor or importer is located outside the U.S. pavilion. Such waiver will be provided to the MAP Participant in writing; and

(19) Contracts with U.S. based organizations when the only contracted service such organizations provide to a MAP Participant is carrying out a specific market promotion activity in the United States directed to a foreign audience (e.g., a trade mission of foreign buyers coming to the United States to

visit U.S. exporters). Such contracts may be reimbursable as a direct promotional expense. If a U.S. based organization provides administrative services to the MAP Participant's domestic home office during a program year, any direct promotional services such organization provides to the Participant, whether for the Participant's domestic or overseas offices, during the same program year are not reimbursable.

(c) Subject to paragraphs (a) and (d) of this section, but for generic promotion activities only, CCC will also reimburse, in whole or in part, the cost of:

(1) Compensation and allowances for housing, educational tuition, and cost of living adjustments paid to a U.S. citizen employee or a U.S. citizen contractor stationed overseas, except CCC will not reimburse that portion of:

(i) The total of compensation and allowances that exceed 125 percent of the level of a GS-15 Step 10 salary for U.S. Government employees, and

(ii) Allowances that exceed the rate authorized for U.S. Embassy personnel;

(2) Approved supergrade salaries for non-U.S. citizens and non-U.S. contractors stationed overseas;

(3) Compensation of non-U.S. citizen staff employees or non-U.S. contractors stationed overseas subject to the following limitations:

(i) Where there is a local U.S. Embassy Foreign Service National (FSN) salary plan, CCC will not reimburse any portion of such compensation that exceeds the compensation prescribed for the most comparable position in the FSN salary plan, except for approved supergrades, or

(ii) Where an FSN salary plan does not exist, CCC will not reimburse any portion of such compensation that exceeds locally prevailing levels, which the MAP Participant shall document by a salary survey or other means, except for approved supergrades;

(4) A retroactive salary adjustment for non-U.S. citizen staff employees or non-U.S. contractors stationed overseas that conforms to a change in FSN salary plans, effective as of the date of such change;

(5) Accrued annual leave as of the time employment is terminated or as of such time as required by local law;

(6) Overtime paid to clerical staff of approved MAP-funded overseas offices;

(7) Temporary contractor fees for contractors stationed overseas, except CCC will not reimburse any portion of any such fee that exceeds the daily gross salary of a GS-15, Step 10 for U.S. Government employees in effect on the date the fee is earned, unless a bidding process reveals that such a contractor is not available at or below that salary rate;

(8)(i) Subject to §1485.17(b)(18), international travel expenditures, not to exceed the full fare economy rate, including any fees for modifying the originally purchased airline ticket, per diem, passports, visas and inoculations, for activities held outside the United States or in the United States, as allowed under the U.S. Federal Travel Regulations (41 CFR parts 301 through 304), except that if the activity is participation in a retail, trade, or consumer exhibit or show held inside the United States, international travel expenditures are covered only if the exhibit or show is: (1) A food or agricultural show with no less than 30% of exhibitors selling food or agricultural products, (2) an international show that targets buyers, distributors and the like from more than one foreign country and no less than 15% of its visitors are from countries other than the host country, and (3) an exhibit or show that the MAP Participant has not participated in within the last three years using funds from a source other than the MAP. CCC will compile a list of approved retail, trade and consumer exhibits and shows held inside the United States for which MAP reimbursement is available and such list will be announced to MAP Participants via a MAP notice issued on FAS' Web site.

(ii) CCC generally will not reimburse any portion of air travel, including any fees for modifying the originally purchased ticket, in excess of the full fare economy rate or when the MAP Participant fails to notify the Attaché/Counselor in the destination country in advance of the travel, unless the CCC determines it was impractical to provide such notice. If a traveler flies in business class or a different premium class, the basis for reimbursement will be the

full fare economy class rate for the same flight and the MAP Participant shall provide documentation establishing such full fare economy class rate to support its reimbursement claim. If economy class is not offered for the same flight or if the traveler flies on a charter flight, the basis for reimbursement will be the average of the full fare economy class rate for flights offered by three different airlines between the same points on the same date and the MAP Participant shall provide documentation establishing such average of the full fare economy class rates to support its reimbursement claim.

(iii) In very limited circumstances, the MAP Participant may be reimbursed for air travel up to the business class rate (*i.e.*, a premium class rate other than the first class rate) upon prior written approval by CCC. Such circumstances are:

(A) Regularly scheduled flights between origin and destination points do not offer economy class (or equivalent) airfare and the MAP Participant receives written documentation from its travel agent to that effect at the time the tickets are purchased;

(B) Business class air travel is necessary to accommodate an eligible traveler's disability. Such disability must be substantiated in writing by a physician; and

(C) An eligible traveler's origin and/or destination are outside of the continental United States and the scheduled flight time, beginning with the scheduled departure time, ending with the scheduled arrival time, and including stopovers and changes of planes, exceeds 14 hours. In such case, per diem and other allowable expenses will also be reimbursable for the day of arrival. However, no expenses will be reimbursable for a rest period or for any non-work days (e.g., weekends, holidays, personal leave, etc.) immediately following the date of arrival.

(iv) Alternatively, in lieu of reimbursing up to the business class rate in such circumstances, CCC will reimburse economy class airfare plus per diem and other allowable travel expenses related to a rest period of up to 24 hours, either en route or upon arrival at the destination. For a trip with

multiple destinations, each origin/destination combination will be considered separately when applying the 14 hour rule for eligibility of reimbursement of business class travel or rest period expenses. A stopover is the time a traveler spends at an airport, other than the originating or destination airport, which is a normally scheduled part of a flight. A change of planes is the time a traveler spends at an airport, other than the originating or destination airport, to disembark from one flight and embark on another. All travel should follow a direct or usually traveled route. Under no circumstances should a traveler select flights in a manner that extends the scheduled flight time to beyond 14 hours in part to secure eligibility for reimbursement of business class travel;

(9) Automobile mileage at the local U.S. Embassy rate or rental cars while in travel status;

(10) Other allowable expenditures while in travel status as authorized by the U.S. Federal Travel Regulations (41 CFR parts 301 through 304);

(11) Organization costs for overseas offices approved in MAP program agreements. Such costs include incorporation fees, brokers' fees, fees to attorneys, accountants, or investment counselors, whether or not employees of the organization, incurred in connection with the establishment or reorganization of the overseas office, and rent, utilities, communications originating overseas, office supplies, accident liability insurance premiums, and routine accounting and legal services required to maintain the overseas office;

(12) The purchase, lease, or repair of, or insurance premiums for, capital goods that have an expected useful life of at least 1 year, such as furniture, equipment, machinery, removable fixtures, draperies, blinds, floor coverings, computer hardware and software, and portable electronic communications devices (including mobile phones, wireless email devices, personal digital assistants);

(13) Such premiums for health or accident insurance and other benefits for foreign national employees that the employer is required by law to pay;

(14) Accident liability insurance premiums for facilities used jointly with third-party participants for MAP activities or for MAP-funded travel of third-party participants;

(15) Market research, including research to determine the types of products that are desired in a market;

(16) Independent evaluations and audits, if not otherwise required by CCC, to ensure compliance with program requirements;

(17) Legal fees to obtain advice on the host country's labor laws;

(18) Employment agency fees;

(19) STRE incurred outside of the United States, and STRE incurred in conjunction with an approved activity taking place within the United States with prior written approval from CCC. MAP Participants are required to use the appropriate American Embassy representational funding guidelines for breakfasts, lunches, dinners and receptions. MAP Participants may exceed Embassy guidelines only when they have received written authorization from the FAS Agricultural Counselor at the Embassy. The amount of unauthorized STRE expenses that exceed the guidelines will not be reimbursed. MAP Participants must pay the difference between the total cost of STRE events and the appropriate amount as determined by the guidelines. For STRE incurred in the United States, the MAP Participant should provide, in its request for approval, the basis for determining its proposed expenses;

(20) Educational travel of dependent children, visitation travel, rest and recuperation travel, home leave travel, emergency visitation travel for U.S. overseas employees allowed under the Foreign Affairs Manual published by the U.S. Department of State;

(21) Evacuation payments (safe haven) and shipment and storage of household goods and motor vehicles;

(22) U.S. office(s) administrative support expenses for the National Association of State Departments of Agriculture, the SRTGs, and the Intertribal Agriculture Council;

(23) Non-travel expenditures associated with conducting international staff conferences held either in or outside the United States;

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(24) Subject to §1485.17(b)(18), domestic travel expenditures, as allowed under the U.S. Federal Travel Regulations (41 CFR parts 301 through 304), for international retail, trade and consumer exhibits and shows conducted in the United States upon prior written approval by CCC. Domestic travel expenses to such a show or exhibit are covered only if the exhibit or show is: (1) A food or agricultural show with no less than 30% of exhibitors selling food or agricultural products, (2) an international show that targets buyers, distributors and the like from more than one foreign country and no less than 15% of its visitors are from countries other than the host country, and (3) an exhibit or show that the MAP Participant has not participated in within the last three years using funds from a source other than the MAP. CCC will compile a list of approved retail, trade and consumer exhibits and shows held inside the United States for which MAP reimbursement is available and such list will be announced to MAP Participants via a MAP notice issued on FAS' Web site;

(25) Domestic travel expenditures, as allowed under the U.S. Federal Travel Regulations (41 CFR parts 301 through 304), for seminars and educational training conducted in the United States;

(26) Domestic travel expenditures, as allowed under the U.S. Federal Travel Regulations (41 CFR parts 301 through 304), for one home office MAP Participant employee, one MAP Participant board member, or a state department of agriculture employee paid by the MAP Participant, when such individual accompanies foreign trade missions or technical teams while traveling in the United States where the following conditions are met:

- (i) Such trade missions or technical team visits are identified in the MAP Participant's UES;
- (ii) Such trade missions or technical team visits have been approved by CCC; and
- (iii) The MAP-sponsored traveler submits a follow-up trip report to CCC that includes the following:

(A) Purpose for the individual's participation;

(B) Any pre-arranged business meetings;

(C) Itinerary and/or agenda for the trip; and

(D) Feedback from sponsors and trade mission/technical team members on the success of the trip.

(27) Approved demonstration projects;

(28) Expenditures related to copyright, trademark, or patent registration, including attorney fees;

(29) Rental or lease expenditures for storage space for program-related materials;

(30) Business cards that target a foreign audience;

(31) Expenditures associated with developing, updating, and servicing Web sites on the Internet that: Contain a message related to exporting or international trade, include a discernible "link" to the FAS/Washington homepage or an FAS overseas homepage, and have been specifically approved by the appropriate FAS commodity division. Expenditures related to Web sites or portions of Web sites that are accessible only to an organization's members are not reimbursable. Reimbursement claims for Web sites that include any sort of "members only" sections must be prorated to exclude the costs associated with those areas subject to restricted access;

(32) Expenditures not otherwise prohibited from reimbursement that are associated with activities held in the United States or abroad designed to improve market access by specifically addressing temporary, permanent, or impending technical barriers to trade that prohibit or threaten U.S. exports of agricultural commodities; and

(33) Membership fees in professional, industry-related organizations.

(d) CCC will not reimburse any cost of:

(1) Forward year financial obligations, such as severance pay, attributable to employment of foreign nationals;

(2) Expenses, fines, settlements, judgments or payments relating to legal suits, challenges or disputes;

(3) The design and production of packaging, labeling or origin identification, except as specifically allowed in this subpart;

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(4) Product development, product modification or product research;

(5) Product samples;

(6) Slotting fees or similar sales expenditures;

(7) The purchase of, construction of, or lease of space for permanent, non-mobile displays, i.e., displays that are constructed to remain permanently in the same location beyond one program year. However, CCC may, at its discretion, reimburse the construction or purchase of permanent displays on a case-by-case basis, if the Participant sought and received prior written approval from CCC of such construction or purchase;

(8) Rental, lease or purchase of warehouse space, except for storage space for program-related material;

(9) Coupon redemption or price discounts of the MAP promoted commodity;

(10) Refundable deposits or advances;

(11) Giveaways, awards, prizes, gifts and other similar promotional materials in excess of the limitation that CCC will determine. Such determination will be announced in writing via a MAP notice issued on FAS' Web site;

(12) Alcoholic beverages that are not an integral part of an approved promotional activity;

(13) The purchase, lease (except for use in authorized travel status) or repair of motor vehicles;

(14) Travel of applicants for employment interviews;

(15) Unused non-refundable airline tickets or associated penalty fees, except where travel was restricted by U.S. Government action or advisory;

(16) Independent evaluations or audits, including evaluations or audits of the activities of a subcontractor, if CCC determines that such a review is needed in order to confirm past or to ensure future program agreement or regulatory compliance;

(17) Any arrangement that has the effect of reducing the selling price of a U.S. agricultural commodity;

(18) Goods, services and salaries of personnel provided by U.S. industry or foreign third party;

(19) Membership fees in clubs and social organizations;

(20) Indemnity and fidelity bonds;

(21) Fees for participating in U.S. Government sponsored activities, other than trade fairs and exhibits;

(22) Business cards that target a U.S. domestic audience;

(23) Seasonal greeting cards;

(24) Office parking fees;

(25) Subscriptions to publications that are not of a technical, economic, or marketing nature or that are not relevant to the approved activities of the MAP Participant;

(26) U.S. office(s) administrative expenses, including communication costs, except as noted in §1485.17(c)(22) and except that usage costs for communications devices incurred while on reimbursable international or domestic travel for approved MAP brand or generic promotion activities are reimbursable as eligible travel expenditures as allowed under the U.S. Federal Travel Regulations (41 CFR Parts 301 through 304);

(27) Any expenditure on an activity that includes any derogatory reference or comparison to other U.S. agricultural commodities;

(28) Payment of U.S. and foreign employees' or contractors' share of personal taxes, except where a foreign country's laws require the MAP Participant to pay such employees' or contractors' share;

(29) Any expenditure made for an activity prior to CCC's approval of that activity;

(30) Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening; and

(31) Expenditures associated with a MAP Participant's creation or review of their fraud prevention program, contracting procedures, or brand program operational procedures.

(e) Special rules for approval of supergrades.

(1) With respect to individuals who are not U.S. citizens and who are hired by MAP Participants either as employees or contractors who are hired to act as employees, ordinarily, CCC will not reimburse any portion of such individual's compensation that exceeds the compensation prescribed for the most comparable position in the FSN salary

plan applicable to the country in which the employee or contractor works. However, a MAP Participant may seek a higher level of reimbursement for a non-U.S. citizen employee or contractor who will be employed as a country director or regional director by requesting that CCC approve that employee or contractor as a supergrade.

(2) To request approval of a supergrade, the MAP Participant shall provide CCC with a detailed description of both the duties and responsibilities of the position and the qualifications and background of the employee or contractor concerned. The Participant shall also justify why the comparable FSN salary level is insufficient.

(3) Where a non-U.S. citizen employee or contractor will be employed as a country director, the MAP Participant may request approval for a "Supergrade I" salary level, equivalent to a grade increase over the existing top grade of the FSN salary plan. The supergrade and its step increases are calculated as the percentage difference between the second highest and the highest grade in the FSN salary plan, with that percentage applied to each of the steps in the top grade. Where the non-U.S. citizen employee or contractor will be employed as a regional director, with responsibility for activities and/or offices in more than one country, the MAP Participant may request approval for a "Supergrade II" salary level, which is calculated relative to a "Supergrade I" in the same way the latter is calculated relative to the highest grade in the FSN salary plan.

(4) A U.S. citizen with dual citizenship with another foreign country or countries shall not be considered a non-U.S. citizen.

(f) For a brand promotion activity, CCC will reimburse no more than 50 percent of the total eligible expenditures made on that activity.

(g) CCC will reimburse for expenditures made after the conclusion of a MAP Participant's program year provided:

(1) The activity was approved by CCC prior to the end of the program year;

(2) The activity was completed within 30 calendar days following the end of the program year; and

(3) All expenditures were made for the activity within 6 months following the end of the program year.

(h) A MAP Participant shall not use MAP funds for any activity or any expenses incurred by the MAP Participant prior to the date of the program agreement or after the date the program agreement is suspended or terminated, except as otherwise permitted by CCC.

(i) Except as otherwise provided in this subpart, MAP-funded travel shall conform to U.S. Federal Travel Regulations (41 CFR parts 301 through 304) and MAP-funded air travel shall conform to the requirements of the Fly America Act (49 U.S.C. 40118). The MAP Participant shall notify the Attaché/Counselor in the destination countries in writing in advance of any proposed travel.

(j) CCC may determine, at CCC's discretion, whether any cost not expressly listed in §1485.17 will be reimbursed.

#### § 1485.18 Reimbursement procedures.

(a) Participants are required to use CCC's Internet-based UES system to request reimbursement for eligible MAP expenses. Claims for reimbursement shall contain the following information:

- (1) Activity type—brand or generic;
- (2) Activity number;
- (3) Commodity aggregate code;
- (4) Country code;
- (5) Cost category;
- (6) Amount to be reimbursed;
- (7) If applicable, any reduction in the amount of reimbursement claimed to offset CCC demand for refund of amounts previously reimbursed and reference to the relevant compliance report or written notice; and
- (8) If applicable, any amount previously claimed that has not been reimbursed.

(b) All claims for reimbursement shall be submitted by the MAP Participant's U.S. office to CCC.

(c) CCC will not reimburse a claim for less than \$10,000, except that CCC will reimburse a final claim for a MAP Participant's program year for a lesser amount.

(c) CCC will not reimburse a claim for less than \$10,000, except that CCC will reimburse a final claim for a MAP Participant's program year for a lesser amount.

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(d) CCC will not reimburse claims submitted later than 6 months after the end of a MAP Participant's program year.

(e) If CCC overpays a reimbursement claim, the MAP Participant shall repay CCC within 30 days of such overpayment the amount of the overpayment either by submitting a check payable to CCC or by offsetting its next reimbursement claim. The MAP Participant shall make such payment in U.S. dollars, unless otherwise approved in advance by CCC.

(f) If a MAP Participant receives a reimbursement or offsets an advanced payment which is later disallowed, the MAP Participant shall repay CCC within 30 days of such disallowance the amount disallowed either by submitting a check payable to CCC or by offsetting its next reimbursement claim. The MAP Participant shall make such payment in U.S. dollars, unless otherwise approved in advance by CCC.

(g) MAP funds may be expended by MAP Participants only on legitimate, approved activities as set forth in the program agreement and approval letter. If a MAP Participant discovers that MAP funds have not been properly spent, it shall notify CCC and shall within 30 days of its discovery repay CCC the amount owed either by submitting a check payable to CCC or by offsetting its next reimbursement claim. The MAP Participant shall make such payment in U.S. dollars, unless otherwise approved in advance by CCC.

(h) The MAP Participant shall report any actions that may have a bearing on the propriety of any claims for reimbursement in writing to CCC.

### § 1485.19 Advances.

(a) Policy. In general, CCC operates the MAP on a reimbursable basis.

(b) *Exception.* A MAP Participant for generic promotion activities may request an advance of MAP funds from CCC, provided the MAP Participant meets the criteria for advance payments in 2 CFR part 200. CCC will not approve any request for an advance submitted later than 3 months after the end of a MAP Participant's program year. At any given time, total payments advanced shall not exceed 40

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percent of a MAP Participant's approved generic activity budget for the program year. CCC will not advance funds to a MAP Participant for brand promotion activities. When approving a request for an advance, CCC may require the MAP Participant to carry adequate fidelity bond coverage when the absence of such coverage is considered to create an unacceptable risk to the interests of the MAP. Whether an "unacceptable risk" exists in a particular situation will depend on a number of factors, such as, for example, the Participant's history of performance in MAP; the Participant's perceived financial stability and resources; and any other factors presented in the particular situation that may reflect on the Participant's responsibility or the riskiness of its activities.

(c) Interest. A MAP Participant shall deposit and maintain in an insured bank account in the United States all funds advanced by CCC. The account shall be interest-bearing, unless the exceptions in 2 CFR part 200. Interest earned by the MAP Participant on funds advanced by CCC is not program income. The MAP Participant shall remit any interest earned on the advanced funds to the appropriate entity as set forth in the applicable parts of this title.

(d) Refunds due CCC. A MAP Participant shall fully expend all advances on approved generic promotion activities within 90 calendar days after the date of disbursement by CCC. By the end of the 90 calendar days, the MAP Participant must submit reimbursement claims to offset the advance and submit a check made payable to CCC for any unexpended balance. The MAP Participant shall make such payment in U.S. dollars, unless otherwise approved in advance by CCC.

[60 FR 6363, Feb. 1, 1995, as amended at 77 FR 41885, July 17, 2012; 79 FR 75997, Dec. 19, 2014]

### § 1485.20 Employment practices.

(a) A MAP Participant shall enter into written contracts with all overseas employees who are paid in whole or in part with MAP funds and shall ensure that all terms, conditions, and related formalities of such contracts conform to governing local law.

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(b) A MAP Participant 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 MAP Participant may pay salaries or fees in any currency (U.S. or foreign). Participants should consult local laws regarding currency restrictions.

### § 1485.21 Financial management.

(a) A MAP Participant shall implement and maintain a financial management system that conforms to generally accepted accounting principles. A MAP Participant's financial management system shall comply with the standards in 2 CFR part 200.

(b) A MAP Participant shall institute internal controls and provide written guidance to commercial entities participating in its activities to ensure their compliance with these regulations.

(c) A MAP Participant shall retain all records concerning a MAP program transaction for a period of 5 years after completion of the program transaction and permit CCC to have full and complete access, for such 5-year period, to such records. These records shall include all documents related to employment of any employees whose salaries are reimbursed in whole or in part with MAP funds, whether such employees are based in the United States or overseas, such as employment applications, contracts, position descriptions, leave records, salary changes, and all records pertaining to contractors.

(d) A MAP Participant shall maintain its records of expenditures and contributions in a manner that allows it to provide information by activity plan, country, 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 \$75.00. CCC may, from time to time, determine a different minimum level and announce that minimum level in writing to all MAP Participants via a

MAP notice issued on the FAS Web site;

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

(4) Copies of reimbursement claims;

(5) An itemized list of claims charged to each of the MAP Participant's CCC resources accounts;

(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, travel vouchers, and credit memos; and

(7) Documentation supporting contributions. These must include the dates, purpose, and location of the activity for which the cash or in-kind items were claimed as a contribution; who conducted the activity; the participating groups or individuals; and, the method of computing the claimed contributions. MAP Participants must retain and make available for compliance review documentation related to claimed contributions.

(e) Upon request, a MAP Participant shall provide to CCC originals of documents supporting reimbursement claims.

[60 FR 6363, Feb. 1, 1995, as amended at 79 FR 75997, Dec. 19, 2014]

### § 1485.22 Reports.

(a) *End-of-Year Contribution Report.* Not later than 6 months after the end of its program year, a MAP Participant shall submit two copies of a report that identifies, by cost category and in U.S. dollar equivalent, contributions made by the Participant, the U.S. industry, and the States during that program year. A suggested format of a contribution report is available from FAS. Foreign third party contributions are not included in the end-of-year contribution report.

(b) *Trip reports.* Not later than 45 days after completion of travel (other than local travel), a MAP Participant shall electronically submit a trip report. The report must include the name(s) of the traveler(s), purpose of travel, itinerary, names and affiliations of contacts, and

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a brief summary of findings, conclusions, recommendations, and specific accomplishments.

(c) *Research reports.* Not later than 6 months after the end of its program year, a MAP Participant shall submit a report on any research conducted pursuant to the approved MAP program.

(d) *Evaluation reports.* Not later than 6 months after the end of its program year, a MAP Participant shall submit a report on any evaluations conducted in accordance with the approved MAP program.

(e) Where CCC is designated the cognizant agency for audit, CCC may require the MAP Participant to submit to CCC an annual audit in accordance with 2 CFR part 200. If CCC requires an additional audit with respect to a particular agreement, the MAP Participant shall arrange for such audit and shall submit to CCC, in the manner to be specified by CCC, such audit of the agreement.

(f) CCC may require the submission of additional reports.

(g) A MAP Participant's program agreement and/or approval letter shall specify to whom the Participant shall submit the reports required in this section.

[60 FR 6363, Feb. 1, 1995, as amended at 79 FR 75997, Dec. 19, 2014]

**§ 1485.23 Evaluation.**

(a) Policy. (1) The Government Performance and Results Act (GPRA) of 1993 (5 U.S.C. 306; 31 U.S.C. 1105, 1115–1119, 3515, 9703–9704) requires performance measurement of Federal programs, including the MAP. Evaluation of the MAP's effectiveness will depend on a clear statement by Participants of goals to be met within a specified time, schedule of measurable milestones for gauging success, plan for achievement, and assessment of results of activities at regular intervals. The overall goal of the MAP and of individual Participants' programming is to achieve or maintain sales that would not have occurred in the absence of MAP funding. A MAP Participant that can demonstrate such sales, taking into account extenuating factors beyond the Participant's control, will have met the overall objective of the GPRA and the need for evaluation.

(2) Evaluation is an integral element of program planning and implementation, providing the basis for the strategic plan. The evaluation results guide the development and scope of a MAP Participant's program, contributing to program accountability, and providing evidence of program effectiveness.

(b) All MAP Participants must report annual results against their target market and/or regional constraint/opportunity performance measures. These are outcome results usually based on multiple activities and should demonstrate progress made in the market. This report shall be completed and submitted to CCC no later than 6 months following the end of the Participant's program year.

(c) MAP Participants conducting a branded program must also complete a brand promotion evaluation. A brand promotion evaluation is a review of the U.S. and foreign commercial entities' export sales to determine whether the activity achieved the goals specified in the approved MAP program. This evaluation shall be completed and submitted to CCC no later than 6 months following the end of the Participant's program year.

(d) When appropriate or required by CCC, a MAP Participant shall complete a program evaluation. A program evaluation is a review of the MAP Participant's entire program, or an appropriate portion of the program as agreed to by the MAP Participant and CCC, to determine the effectiveness of the MAP Participant's strategy in meeting specified goals. Actual scope and timing of the program evaluation shall be determined by the MAP Participant and CCC and specified in the approval letter. A MAP Participant shall submit, via a cover letter to CCC, an executive summary that assesses the program evaluation's findings and recommendations and proposed changes in program strategy or design as a result of the evaluation. In addition to the requirements set forth in the applicable parts of this title (for example, 2 CFR part 200), a program evaluation shall contain:

- (1) The name of the party conducting the evaluation;
- (2) The scope of the evaluation;

(3) A concise statement of the market constraint(s)/opportunity(ies) and the goals specified in the approved strategic plan;

(4) A description of the evaluation methodology;

(5) A description of export sales achieved;

(6) A summary of the findings, including an analysis of the strengths and weaknesses of the program(s); and

(7) Recommendations for future programs.

(e) On an annual basis, or more often when appropriate or required by CCC, a MAP Participant shall complete and submit program success stories. CCC will announce to all MAP Participants in writing via a MAP notice issued on the FAS Web site the detailed requirements for completing and submitting program success stories.

[60 FR 6363, Feb. 1, 1995, as amended at 79 FR 75997, Dec. 19, 2014]

**§ 1485.24 Compliance reviews and notices.**

(a) USDA staff may conduct compliance reviews of MAP Participants' activities under the MAP program. MAP Participants shall cooperate fully with relevant USDA staff conducting compliance reviews and shall comply with all requests from USDA staff to facilitate the conduct of such reviews.

(b) Upon conclusion of the compliance review, USDA staff will provide either a written compliance report or a letter to the MAP Participant. USDA staff will issue a compliance report if it appears that CCC may be entitled to recover funds from that Participant and/or it appears that the Participant is not complying with any of the terms or conditions of the program agreement, approval letter, or the applicable laws and regulations. The compliance report will explain the basis for any recovery of funds from the Participant. Within 30 days of the date of the compliance report, the MAP Participant shall repay CCC the amount owed either by submitting a check payable to CCC or by offsetting its next reimbursement claim. The MAP Participant shall make such payment in U.S. dollars, unless otherwise approved in advance by CCC. If, however, a MAP Participant notifies CCC within 30 days of

the date of the compliance report that the Participant intends to file an appeal pursuant to §1485.24(e), the amount owed to CCC by the MAP Participant is not due until the appeal procedures are concluded and CCC has made a final determination as to the amount owed. In the absence of any finding of funds due to CCC or other non-compliance, CCC will issue a letter to the MAP Participant. If, as a result of a compliance review, CCC determines that further review is needed in order to ensure compliance with the requirements of MAP, CCC may require the Participant to contract for an independent audit.

(c) In addition, CCC may notify a MAP Participant in writing at any time if CCC determines that CCC may be entitled to recover funds from the Participant. CCC will explain the basis for any recovery of funds from the Participant in the written notice. The MAP Participant shall within 30 days of the date of the notice repay CCC the amount owed either by submitting a check payable to CCC or by offsetting its next reimbursement claim. The MAP Participant shall make such payment in U.S. dollars, unless otherwise approved in advance by CCC. If, however, a MAP Participant notifies CCC within 30 days of the date of the written notice that the Participant intends to file an appeal pursuant to §1485.24(e), the amount owed to CCC by the MAP Participant is not due until the appeal procedures are concluded and CCC has made a final determination as to the amount owed.

(d) The fact that a compliance review has been conducted by USDA staff does not signify that a MAP Participant is in compliance with its program agreement, approval letter and/or applicable laws and regulations.

(e) Appeals.

(1) A MAP Participant may, within 60 days of the date of the compliance report or written notice from CCC, submit a written response to CCC appealing the report or notice. CCC, at its discretion, may extend the period for response.

(2) After review of the Participant's response, CCC shall determine whether the Participant owes any funds to CCC and will inform the Participant in

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writing of the basis for the determination. CCC will initiate action to collect such amount by providing the Participant a written demand for payment of the debt pursuant to Debt Settlement Policies and Procedures, 7 CFR part 1403.

(3) Within 30 days of the date of the determination, the Participant may request in writing that CCC reconsider the determination and shall submit in writing the basis for such reconsideration. The Participant may also request a hearing.

(4) If the Participant requests a hearing, CCC will set a date and time for the hearing. The hearing will be an informal proceeding. A transcript will not ordinarily be prepared unless the Participant bears the cost of a transcript; however, CCC may in its discretion have a transcript prepared at CCC's expense.

(5) CCC will base its final determination upon information contained in the administrative record. The Participant must exhaust all administrative remedies contained in this section before pursuing judicial review of a determination by CCC.

### § 1485.25 Failure to make required contribution.

A MAP Participant's required contribution will be specified in the approval letter. If the MAP Participant's required contribution is specified as a dollar amount and the MAP Participant does not make the required contribution, the MAP Participant shall pay to CCC in dollars the difference between the amount actually contributed and the amount specified in the approval letter. If the MAP Participant's required contribution is specified as a percentage of the total amount reimbursed by CCC, the MAP Participant may either return to CCC the amount of funds reimbursed by CCC to increase its actual contribution percentage to the required level or pay to CCC in dollars the difference between the amount actually contributed and the amount of funds necessary to increase its actual contribution percentage to the required level. A MAP Participant shall remit such payment within six months after the end of its program year. The MAP Participant shall make such pay-

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ment in U.S. dollars, unless otherwise approved in advance by CCC.

### § 1485.26 Submissions.

For all permissible methods of delivery, submissions required by this subpart shall be deemed submitted as of the date received by CCC.

### § 1485.27 Disclosure of program information.

(a) Documents submitted to CCC by MAP Participants are subject to the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552, 7 CFR part 1, subpart A—Official Records, and specifically 7 CFR 1.12, Handling Information from a Private Business.

(b) Any research conducted by a MAP Participant pursuant to a MAP program agreement and/or approval letter shall be subject to the provisions relating to intangible property in 2 CFR part 200.

[60 FR 6363, Feb. 1, 1995, as amended at 79 FR 75997, Dec. 19, 2014]

### § 1485.28 Ethical conduct.

(a) A MAP Participant shall conduct its business in accordance with the laws and regulations of the country in which an activity is carried out and in accordance with applicable U.S. Federal, state and local laws, and regulations. A MAP Participant shall conduct its business in the United States in accordance with applicable Federal, state and local laws and regulations. All MAP Participants must comply with the regulations in 2 CFR parts 200 and 421 and this part.

(b) Except for a U.S. agricultural cooperative or a U.S. for-profit entity, neither a MAP Participant nor its affiliates shall make export sales of U.S. agricultural commodities and products covered under the terms of the applicable MAP agreement. Nor shall such entities charge a fee for facilitating an export sale. A MAP Participant may, however, collect check-off funds and membership fees that are required for membership in the MAP Participant. For the purposes of this paragraph, "affiliate" means any partnership, association, company, corporation, trust, or any other such party in which the Participant has an investment other than in a mutual fund.

(c) A MAP Participant shall not limit participation in its MAP activities to members of its organization. Participants shall ensure that their MAP-funded programs and activities are open to all otherwise qualified individuals and entities on an equal basis and without regard to any non-merit factors. The MAP Participant shall publicize its program and make participation possible for commercial entities throughout the relevant commodity sector or, in the case of SRTGs, throughout the corresponding region. This includes providing to such commercial entities, upon request, a copy of any document in its possession or control containing market information developed and produced under the terms of its MAP agreement. The Participant may charge a fee not to exceed the costs for assembling, duplicating and distributing the materials. This paragraph does not apply to U.S. agricultural cooperatives when implementing their own brand program.

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

(e) All MAP Participants should endeavor to ensure fair and accurate fact-based advertising. Deceptive or misleading promotions may result in cancellation or termination of a Participant's MAP agreement and the recovery of CCC funds related to such promotions from the Participant.

(f) The MAP Participant must report any actions or circumstances that may have a bearing on the propriety of its MAP program to the appropriate Attaché/Counselor, and its U.S. office shall report such actions or circumstances in writing to CCC.

[60 FR 6363, Feb. 1, 1995, as amended at 79 FR 75997, Dec. 19, 2014]

**§ 1485.29 Contracting procedures.**

(a) Neither CCC nor any other agency of the U.S. Government nor any official or employee of CCC, FAS, USDA, or the U.S. Government has any obliga-

tion or responsibility with respect to MAP Participant contracts with third parties.

(b) A MAP Participant shall comply with the procurement standards set forth below and in the applicable parts of this title when procuring goods and services and when engaging in construction to implement program agreements for example, 2 CFR part 200. For purposes of this subpart, the "small purchase threshold" referenced in 2 CFR part 200 is the "simplified acquisition threshold" established by 41 U.S.C. 134.

(c) Each MAP Participant shall establish contracting procedures for contracts that are funded, in whole or in part, with MAP funds that are open, fair, and competitive.

(d) Each MAP Participant shall submit to CCC, for CCC approval, written contracting guidelines for contracts that are funded, in whole or in part, with MAP funds. CCC will notify all new and existing MAP Participants in writing in each Participant's annual approval letter and through the FAS web site as to applicable submission dates for and dates for approvals of contracting guidelines. CCC's approval of such contracting guidelines will remain in place until CCC retracts its approval in writing, or until new guidelines are approved that supersede them. Once approved by CCC, these contracting guidelines shall govern all of a Participant's MAP-funded contracting involving contracts with an annual value of \$35,000 or more. CCC may determine a different minimum value and announce that minimum value in writing to all MAP Participants via a MAP notice issued on the FAS Web site. The guidelines shall indicate the method for evaluating proposals received for all contract competitions, the method for monitoring and evaluating performance under contracts, and the method for initiating corrective action for unsatisfactory performance under contracts. The MAP Participant may modify and resubmit these guidelines for re-approval at any time. In addition to the requirements in 2 CFR part 200, these guidelines shall include, at a minimum, the following:

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(1) Procedures for developing and publicizing requests for proposals, invitations for bids, and similar documents that solicit third party offers to provide goods or services. Solicitations for professional and technical services shall be based on clear and accurate descriptions of and requirements related to the services to be procured. Such procedures must include a conflict-of-interest provision that states that no employee, officer, board member, or agent thereof of the MAP Participant will participate in the review, selection, award or administration of a contract if a real or apparent conflict of interest would arise. Such a conflict would arise when an employee, official, board member, agent, or the employee's, officer's, board member's, agent's family, partners, or an organization that employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. Procedures shall provide that officers, employees, board members, and agents thereof shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or subcontractors. Procedures shall also provide for disciplinary actions to be applied for violations of such standards by officers, employees, board members or agents thereof;

(2) Procedures for reviewing proposals, bids, or other offers to provide goods and services. Separate procedures shall be developed for various situations, including, but not limited to: solicitations for highly technical services; solicitations for services that are not common in a specific market; solicitations that yield receipt of three or more bids; solicitations that yield receipt of fewer than three bids;

(3) Requirements to conduct all contracting in an openly competitive manner. Individuals who develop or draft specifications, requirements, statements of work, invitations for bids, and/or requests for proposals for procurement of any goods or services, and such individuals' families or partners, or an organization that employs or is about to employ any of the aforementioned, shall be excluded from competition for such procurement. MAP Participants' written contracting guide-

lines may detail special situations where the prohibitions in this subparagraph do not apply, such as in situations involving highly specialized technical services or situations where the services are not commonly offered in a specific market;

(4) Requirements to perform and document in the procurement files some form of price or cost analysis, such as a comparison of price quotations to market prices or other price indicia, to determine the reasonableness of the offered prices in connection with every procurement action that is governed by the contracting guidelines;

(5) Requirements to conduct an appropriate form of competition every 3 years on all multi-year contracts that are governed by the contracting guidelines. However, contracts for in-country representation are not required to be re-competed after the initial reward. Instead, the performance of in-country representation must be evaluated and documented by the MAP Participant annually to ensure that the terms of the contract are being met in a satisfactory manner; and

(6) Requirements for written contracts with each provider of goods, services, or construction work. Such contracts shall require such providers to maintain adequate records to account for funds provided to them by the MAP Participant.

(e) A MAP Participant may undertake MAP promotional activities directly or through a domestic or foreign third party. However, the MAP Participant shall remain responsible and accountable to CCC for all MAP promotional activities and related expenditures undertaken by such third party and shall be responsible for reimbursing CCC for any funds that CCC determines should be refunded to CCC in relation to such third-party's promotional activities and expenditures.

[60 FR 6363, Feb. 1, 1995, as amended at 79 FR 75997, Dec. 19, 2014]

**§ 1485.30 Property standards.**

The MAP Participant shall insure all MAP-funded real property and equipment acquired in furtherance of program activities and safeguard such

against theft, damage and unauthorized use. The Participant shall promptly report any loss, theft, or damage of property to the insurance company.

**§ 1485.31 Anti-fraud requirements.**

(a) All MAP Participants.

(1) All MAP Participants annually shall submit to CCC for approval a detailed fraud prevention program. CCC will notify all new and existing MAP Participants in writing in each Participant's annual approval letter and through the FAS web site as to applicable submission dates for and dates for approvals of fraud prevention programs. MAP Participants should review their fraud prevention programs annually. The fraud prevention program shall, at a minimum, include an annual review of physical controls and weaknesses, a standard process for investigating and remediation of suspected fraud cases, and training in risk management and fraud detection for all current and future employees. The MAP Participant shall not conduct or permit any MAP promotion activities to occur unless and until CCC has communicated in writing approval of the MAP Participant's fraud prevention program.

(2) The MAP Participant, within five business days of receiving an allegation or information giving rise to a reasonable suspicion of misrepresentation or fraud that could give rise to a claim by CCC, shall report such allegation or information in writing to such USDA personnel as specified in the Participant's MAP program agreement and/or approval letter. The MAP Participant shall cooperate fully in any USDA investigation of such allegation or occurrence of misrepresentation or fraud and shall comply with any directives given by CCC or USDA to the MAP Participant for the prompt investigation of such allegation or occurrence.

(b) MAP Participants with brand programs.

(1) The MAP Participant may charge a fee to brand participants to cover the cost of the fraud prevention program.

(2) The MAP Participant shall repay to CCC funds paid to a brand participant through the MAP Participant on claims that the MAP Participant or CCC subsequently determines are unau-

thorized or otherwise non-reimbursable expenses within 30 days of the MAP Participant's determination or CCC's disallowance. The MAP Participant shall repay CCC by submitting a check to CCC or by offsetting the MAP Participant's next reimbursement claim. The MAP Participant shall make such payment in U.S. dollars, unless otherwise approved in advance by CCC. A MAP Participant operating a brand program in strict accordance with an approved fraud prevention program, however, will not be liable to reimburse CCC for MAP funds paid on such claims if the claims were based on misrepresentations or fraud of the brand participant, its employees or agents, unless CCC determines that the MAP Participant was grossly negligent in the operation of the brand program regarding such claims. CCC shall communicate any such determination to the MAP Participant in writing.

**§ 1485.32 Program income.**

Any revenue or refunds generated from an activity, e.g., participation fees, proceeds of sales, refunds of value added taxes (VAT), the expenditures for which have been wholly or partially reimbursed with MAP funds, shall be used by the MAP Participant in furtherance of its approved MAP activities in the program period during which the MAP funds are available for obligation by the MAP Participant. The use of such revenue or refunds shall be governed by 7 CFR Part 1485. Interest earned on funds advanced by CCC is not program income.

**§ 1485.33 Amendment.**

A program agreement may be amended in writing with the consent of CCC and the MAP Participant.

**§ 1485.34 Noncompliance with an agreement.**

If a MAP Participant fails to comply with any term in its program agreement or approval letter, CCC may take one or more of the enforcement actions in 2 CFR part 200 and, if appropriate, initiate a claim against the MAP Participant, following the procedures set

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forth in this subpart. CCC may also initiate a claim against a MAP Participant if program income or CCC-provided funds are lost due to an action or omission of the MAP Participant.

[60 FR 6363, Feb. 1, 1995, as amended at 79 FR 75997, Dec. 19, 2014]

### § 1485.35 Suspension, termination, and closeout of agreements.

A program agreement may be suspended or terminated in accordance with the suspension and termination procedures in 2 CFR part 200. If an agreement is terminated, the applicable regulations in 2 CFR part 200 will apply to the closeout of the agreement.

[79 FR 75997, Dec. 19, 2014]

### § 1485.36 Paperwork reduction requirements.

The paperwork and recordkeeping requirements imposed by this subpart have been approved by OMB under the Paperwork Reduction Act of 1980. OMB has assigned control number 0551-0026 for this information collection.

## PART 1486—EMERGING MARKETS PROGRAM

### Subpart A—General Information

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- 1486.100 General purpose and scope.
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### Subpart B—Eligibility, Applications, and Funding

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- 1486.201 Eligible commodities.
- 1486.202 Application process.
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### Subpart C—Program Operations

- 1486.300 Applicant notification.
- 1486.301 Amendments.
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### Subpart D—Cost Share and Reimbursements

- 1486.400 Cost share.
- 1486.401 Eligible cost share.
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- 1486.405 Reimbursement procedures.
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### Subpart E—Reporting, Evaluation, and Compliance

- 1486.500 Reports.
- 1486.501 Evaluation.
- 1486.502 Compliance reviews and notices.
- 1486.503 Records retention.
- 1486.504 Program income.
- 1486.505 Audit requirements.
- 1486.506 Disclosure of program information.
- 1486.507 Ethical conduct.
- 1486.508 Suspension and termination.
- 1486.509 Noncompliance with an agreement.
- 1486.510 Paperwork reduction requirements.

AUTHORITY: 7 U.S.C. 5623, 5662–5663.

SOURCE: 84 FR 69986, Dec. 20, 2019, unless otherwise noted.

### Subpart A—General Information

#### § 1486.100 General purpose and scope.

(a) The E (Kika) de la Garza Emerging Markets Program (EMP) is established to develop, maintain, or expand markets for exports of United States agricultural commodities and to promote cooperation and exchange of information between agricultural institutions and agribusinesses in the United States and emerging markets. While the program is primarily intended to support the export market development efforts of the private sector, the program's resources may also be used to assist public agricultural organizations.

(b) This part sets forth the general terms, conditions, and policies governing the Commodity Credit Corporation's (CCC) operation of the EMP.

(c)(1) The Office of Management and Budget (OMB) issued guidance on Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200. In 2 CFR 400.1, the U.S. Department of Agriculture (USDA) adopted OMB's guidance in subparts A through F of 2 CFR part 200, as supplemented by 2 CFR part 400, as USDA policies and procedures for uniform administrative requirements, cost principles, and audit requirements for Federal awards.

(2) The OMB guidance at 2 CFR part 200, as supplemented by 2 CFR part 400 and this part, applies to the EMP.