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United States Department of Agriculture

Foreign Agricultural Service

Washington, D.C. 20250

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PUBLIC LAW 480 SALES PROGRAM:

A BRIEF EXPLANATION OF TITLES I AND III

General

Title I of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480, 83rd Congress, as amended) provides for U.S. Government financing of sales of U.S. agricultural commodities to friendly countries on concessional credit terms. Sales are made by private business firms, usually on a bid basis in response to tenders (invitations for bids or "IFB's") issued in the United States by the importing country.

The Food Security Act of 1985 (1985 Farm Bill, Public Law 99-198) authorized the Local Currency Initiative (Section 108) under the authority of Title I of Public Law 480 to generate economic growth via the private sector in recipient countries. To achieve this goal, authority to sell U.S. farm products for local currency has been reinstated.

Title III of Public Law 480 provides for a "Food for Development" program. Under this program, the P.L. 480 commodity sales agreement permits the funds from the sale of P.L. 480 commodities in the importing country to be applied against the country's Title I repayment obligation to the United States, if these funds are used for certain programs of agricultural self-help specified in the agreement.

Unless otherwise specified, all aspects of the P.L. 480 program outlined in this publication are the same whether the agreement is Title I, Title I with Section 108 provisions, or Title III. For ease of reference, "Title I" will be used in this publication to refer to Title I, Title I with Section 108 provisions, or Title III agreements. U.S. commodity suppliers receive payment in U.S. dollars regardless of the type of P.L. 480 agreement signed.

Within the U.S. Government, the Foreign Agricultural Service (FAS) of the Department of Agriculture is the agency responsible for administering agreements made under Title I.

Commodities programed in recent years include wheat, corn, grain sorghum, rice, vegetable oil, wheat flour, dry edible beans, blended/fortified foods, cotton, and tallow.

Negotiation of Agreements

Title I agreements are negotiated with foreign governments through diplomatic channels. In most cases, negotiations are conducted overseas by U.S. Embassy officials under the direction of the U.S. Ambassador.

The Secretary of Agriculture determines the kinds and quantities of commodities available for inclusion in agreements. Specific programs are developed in consultation with several agencies and departments of the Federal Government, including the Departments of State, Treasury, and Commerce, the Agency for International Development, and the Office of Management and Budget.

An agreement may require the government of the importing country to maintain normal imports of agricultural commodities from commercial sources in the United States and other free world countries. These "usual marketing requirements" (UMR's) are required, when applicable, in order to insure that Title I sales will not unduly disrupt world agricultural commodity prices and normal patterns of commercial trade with friendly countries or with the United States. Agreements always prohibit the resale or transshipment of Title I commodities ("export restrictions") and may prohibit or limit the export of similar commodities ("export limitations") in order to insure that Title I commodities are not used to increase the commercial exports of the importing country.

The U.S. Government generally consults governments of friendly countries which export commodities included in the agreement to insure that Title I sales do not unduly disrupt normal free world commercial trade.

Eligibility of Commodity Suppliers

U.S. commodity suppliers interested in selling commodities under Title I, P.L. 480 must submit the following information to USDA, which will determine their eligibility:

1. A current financial statement of the person or firm wishing to become eligible, as evidence of financial responsibility.

2. A statement containing general background information about the firm, with particular reference to the firm's experience as an exporter of U.S. agricultural commodities, and any other information available relating to whether the person or firm is a responsible party and able to perform the obligations of the P.L. 480 regulations and the purchase authorization.

3. A statement, to be maintained on a current basis, listing the name, address, and chief executive officers for all branches, affiliates, subsidiaries, and associated companies, both foreign and domestic, in which the supplier has a controlling interest. This statement must also furnish the same information for any companies which have a controlling interest in the supplier, either directly or through subsidiaries.

Suppliers of commodities other than cotton should submit statements to P.L. 480 Operations Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250-1000. Suppliers of cotton should submit statements to the Director, Kansas City ASCS Commodity Office, U.S. Department of Agriculture, P.O. Box 205, Kansas City, Missouri 64141-0205.

USDA reserves the right to permit a person or firm to act as a supplier only on submission of acceptable performance security, in the form of a letter of credit, which will assure that the supplier will perform the obligations of the Title I, P.L. 480 financing regulations and the purchase authorization.

Financing and Purchasing Procedures (Commodity)

After an agreement has been signed, the importing country applies to FAS for one or more purchase authorizations (PA's). Each PA includes such details as the particular grade or type of commodity to be purchased, the approximate quantity of the commodity and the maximum dollar amount authorized, the period during which contracts may be entered into, and the period during which deliveries must be made. The conditions under which financing will be made available for the commodity sales and any authorized ocean transportation costs are also outlined in the PA. Normally, the earliest date that contracts may be entered into is seven days after the date the PA is issued. Further purchasing information can usually be obtained from the Washington Embassy of the importing country.

The purchase authorization generally provides for commodity financing by the letter of commitment method, under which the Commodity Credit Corporation (CCC), a U.S. government agency within the Department of Agriculture, issues a letter of commitment to the U.S. bank selected by the importing country. CCC thereby guarantees to repay the U.S. bank, through a named Federal Reserve Bank, in dollars for payments made under the Title I regulations. (If a banking institution is interested in information regarding eligibility to participate in the program, contact the Treasurer, CCC, P.O. Box 2415, Washington, D.C. 20013 or telephone (202) 447-3770.)

U.S. commodity suppliers are paid promptly in dollars under letters of credit opened by the importing country through the U.S. commercial bank holding the CCC letter of commitment. The letters of credit must be opened for 100% of the f.a.s. or f.o.b. invoice value of commodities purchased.

Some agreements provide for payment by the importing country, upon delivery of the commodity (on board vessel, U.S. port), of at least five percent of the purchase price ("initial payment"). The purchase authorization states the percentage of the purchase price to be financed by CCC, which will be reflected in CCC's letter of commitment. The bank obtains reimbursement from CCC for this percentage of each transaction, and the importing country must arrange free dollar financing for the balance of the purchase price, representing the initial payment, so that the country can open letters of credit for 100% of the invoice value of purchases.

The following is an outline of commodity financing and purchasing procedures under the letter of commitment method:

1. The government of the importing country applies to CCC through FAS for a letter of commitment. Each application designates the "approved applicant" and the U.S. commercial bank that will participate in the financing. The approved applicant may be a foreign bank or an agency of the foreign government. The letter of commitment does not include funds to cover the initial payment, if any (the percentage of the purchase price which must be financed in dollars by the importing country, under the terms of the agreement).

2. The Title I, P.L. 480 regulations require that all purchases of food commodities be made on the basis of an invitation for bids (IFB) which has been reviewed and approved by USDA before issuance. The IFB must be publicly advertised in the United States, and offers must conform to the terms of the IFB and must be received and publicly opened in the United States. Suppliers may offer for any portion of a purchase authorization; also, an IFB may not establish minimum acceptable quantities. All offers received, regardless of size, must be considered, and all awards must be made in conformance with the terms of the IFB. (Unless otherwise specified in the purchase authorization, the importer may purchase non-food commodities such as cotton through negotiation with a supplier or suppliers of the importer's choice.)

3. As a prerequisite for CCC financing, the successful supplier(s) must register the sale with USDA and obtain approval of the contract terms, including price. Sales are registered with the same USDA offices that determine the eligibility of commodity suppliers.

4. The government of the importing country applies to the approved applicant in the foreign country for a letter of credit in favor of the successful U.S. supplier(s). Shipments made before the U.S. supplier receives a letter of credit are made at the supplier's risk. If the letter of credit is issued after shipment and the shipment was within the delivery period specified in the purchase authorization, loading without a letter of credit does not affect eligibility for CCC financing.

5. The U.S. supplier delivers the commodities to the named U.S. port, and receives a bill of lading as a receipt for the commodities loaded on board. The supplier presents the bill of lading, weight and inspection certificates, and other required documents to the U.S. bank.

6. The U.S. bank examines the documents and pays the supplier in dollars as specified in the letter of credit. The U.S. bank presents its draft and copies of the required documents to the Federal Reserve Bank named in the letter of commitment. The Federal Reserve Bank, acting as agent for CCC, pays (reimburses) the U.S. bank. The U.S. bank sends notice of its disbursement and required documents to the approved applicant (generally a bank in the importing country.)

7. The approved applicant notifies the government of the importing country of the dollar amount financed by CCC.

A. Under Title I (convertible local currency credit or dollar credit), the importing government then pays dollars to CCC, with interest, in subsequent years as required by the agreement.

B. Under Title III, the value of the funds from the local sale of the commodities that is used for specified programs of agricultural self-help is applied against the country's repayment obligation to the United States.

C. Under Title I (Section 108) local currency agreements, the importing country pays for the Title I commodities by depositing local currencies in a U.S.-owned bank account in the importing country shortly after the Title I commodities are delivered. The local currencies will be lent to private financial intermediaries which will then re-lend them to the private sector in the importing country.

Small Business

Title I of Public Law 480 also directs the President to "...take appropriate steps to assure...that small business has adequate and fair opportunity to participate in sales made under the authority of the Act." This program, as with all export programs of the U.S. Department of Agriculture (USDA), is conducted on a non-discriminatory basis.

In order to insure that small business firms have an equal opportunity to participate, the Title I, P.L. 480 financing regulations issued under the Act prohibit buyers from establishing minimum quantities to be offered. All offers, regardless of size, must be considered (Section 17.6(b)(3)(v)).

In addition, the invitations for bids (IFB's) issued by importing countries cannot limit the right to submit offers to any specified group or class of suppliers; IFB's must permit submission of offers by any supplier who meets the requirements of the regulations (Section 17.6(b)(3)(iii)).

Ocean Transportation

In accordance with P.L. 83-664, the Merchant Marine Act, 1936, as amended ("Cargo Preference Act"), for the 12-month period from April 1, 1986, to March 31, 1987, at least 60 percent of the gross tonnage of commodities bought under Title I, P.L. 480 must be shipped on privately-owned U.S. flag commercial vessels to the extent such vessels are available at fair and reasonable rates. Effective April 1, 1987, the percentage increased to 70 percent and on April 1, 1988, to 75 percent. If ocean transportation is required to a country where there is no U.S. flag vessel coverage, a foreign flag vessel will be used at its prevailing rate.

Arrangement for the ocean transportation of commodities bought under Title I is made either directly by officials of the importing government or by their appointed shipping agents. In general, public freight invitations for bids (IFB's) are required for both U.S. and non-U.S. flag vessels unless otherwise authorized by the appropriate USDA office listed below.

The pertinent terms of all proposed charters or liner bookings, regardless of whether any portion of ocean freight is financed by CCC, must be sent to the appropriate USDA office for review and approval prior to fixture of the vessels. For cotton shipments, approvals are obtained from the Director, Kansas City ASCS Commodity Office, U.S. Department of Agriculture, P.O. Box 205, Kansas City, Missouri 64141-0205. For all other commodities, approvals are obtained from the Director, P.L. 480 Operations Division, FAS, U.S. Department of Agriculture, Washington, D.C. 20250-1000.

Under Title I sales agreements, CCC responsibility for ocean freight is generally limited to payment of the ocean freight differential, if any, which exists between the cost of U.S. flag and non-U.S. flag shipments. In certain exceptional cases, CCC may also finance on credit terms the balance of freight costs on U.S. flag vessels, as well as foreign flag freight charges to selected countries, as specifically provided for in the applicable agreements and related purchase authorizations. Ocean freight differential is determined by the Director, P.L. 480 Operations Division, FAS, for all commodities except cotton. The Director, Kansas City ASCS Commodity Office, determines the differential for cotton.

Compliance

Each commodity sales agreement contains specific provisions, described under "Negotiation of Agreements" above as usual marketing requirements (UMR's); export restrictions on P.L. 480 commodities; and export limitations on commodities the same as, or similar to, those imported under P.L. 480. USDA has established procedures designed to insure that the importing country complies with these requirements. If the country fails to do so, purchase authorizations could be withheld; the failure to comply would also be taken into account in considering any future P.L. 480 agreement.

Further Information and Press Releases

The U.S. Department of Agriculture issues press releases when agreements are signed and purchase authorizations are issued. If you wish to be placed on the mailing list to receive P.L. 480 press releases, which automatically covers all commodities, write to:

Information Division
Foreign Agricultural Service
U.S. Department of Agriculture
Washington, D.C. 20250-1000

If you wish to be placed on the mailing list to receive copies of purchase authorizations, state specific commodity interest and write to:

P.L. 480 Operations Division
Foreign Agricultural Service
U.S. Department of Agriculture
Washington, D.C. 20250-1000
Telephone: (202) 447-5780

Copies of the Title I, P.L. 480 financing regulations and related forms are also available from P.L. 480 Operations Division, FAS, at the above address.

Recordings are available which provide information on agreements signed and purchase authorizations issued. Updated information is available after 3:00 p.m. Washington, D.C. time each business day by calling (202) 472-1621 for information on agreements signed and (202) 447-5938 for information on purchase authorizations issued.

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