

MANUAL OF ORDERS

REVOKES 520-1  
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9-4-70

NO. 520-1

EFFECTIVE DATE  
October 21, 1975

SUBJECT

ADMINISTRATION OF TITLE XI FEDERAL SHIP FINANCING GUARANTEE PROGRAM

Section 1. Purpose:

This order establishes procedures and responsibilities for processing applications for ship financing guarantees under Title XI of the Merchant Marine Act, 1936, as amended by P.L. 92-507 (hereinafter referred to as "the Act"), and the administration of insurance contracts, guarantees of obligations, commitments and related agreements entered into under Title XI both prior to and subsequent to the passage of P.L. 92-507.

Section 2. Processing Title XI Applications:

Processing of applications for Title XI ship financing guarantees including those involving construction-differential subsidy, trade-in allowances, or other forms of government aid, shall conform with the provisions of law, orders, regulations, and this order. Maritime Administrative Order 510-1 will apply for construction-differential subsidy, and Maritime Administrative Order 440-3 for vessel trade-in allowances.

Section 3. Basic Determinations:

3.01 The following basic determinations shall be made on each application for Title XI ship financing guarantees of obligation:

- 1 Background of applicant, including citizenship of applicant as well as bareboat, time charter, sale and lease back or other participants in conformance with eligibility requirements of the Act.
- 2 Proposed project to be guaranteed, including type of vessel(s) proposed to be built, eligibility of proposed vessel for Title XI and extent of loan or mortgage participation, trade or operation in which vessel(s) will be used, and economic feasibility of the project (including competition and major risks, availability of assured revenue through long term charters, transportation agreements, and guarantees).
- 3 Financial requirements for the proposed project, including approximate equity (net worth) and working capital required to make applicant eligible for assistance, actual cost of the ship and depreciated actual cost of the ship, obligations to be issued under the transaction, the amount of fee for investigation of the application and for servicing of the escrow fund, rate of interest to be borne by the guaranteed obligation as set forth in the Act, and other capitalizable costs to be

incurred in Title XI financing (including legal, printing fees, underwriters fees, not includable in "actual costs" for ship financing guarantees).

Section 4. Responsibilities - General

4.01 The Office of Subsidy Administration shall have primary responsibility for receiving, analyzing, evaluating, and processing all applications for Title XI ship financing guarantees, for making final recommendations of the basic determinations for such applications, and for the administration of the Title XI contracts, including those contracts in force prior to the passage of P.L. 92-507.

4.02 Other organizational elements of the Maritime Administration, as identified in this order, shall be responsible for providing support services, advice, and recommendations to the Office of Subsidy Administration within their respective areas of expertise, as required in the processing of applications for Title XI ship financing guarantees and the administration of Title XI contracts.

4.03 In the event of a disagreement over a recommendation submitted by another Office, it shall be the responsibility of the Office of Subsidy Administration to include this information in the final recommendation to the appropriate approving official, including the reasons for the disagreement.

4.04 Within the framework of Sections 4.01 - 4.03 above, each component shall carry out the specific responsibilities outlined in Section 5 of this order.

Section 5. Specific Responsibilities:

5.01 The Office of Subsidy Administration shall:

- 1 Receive all Title XI applications and distribute them to appropriate Offices for review and/or analysis, and recommendations or advice on any phase of the transaction falling within their purview.
- 2 Request such additional information from the applicant as may be required to make the application complete, including information requested by other Offices.
- 3 Keep other Offices informed of changes in data submitted in support of the application; and request participation of other Offices in meetings with the applicant when deemed appropriate with respect to matters under their cognizance.

- 4 Confer with the appropriate Offices on any proposed or actual requirements for funds or financial provisions, citizenship, operating ability, etc. considered necessary to qualify the applicant.
- 5 Analyze the competitive and traffic aspects of the undertaking with respect to:
  - (1) The need for the specific vessel type and its use, taking into account traffic densities and revenue pro formas of the vessel;
  - (2) Proposed charters, operating agreements or other competitive contractual arrangements; and
  - (3) Other managerial, traffic, or competitive factors within the Office of Subsidy Administration purview, affecting the economic soundness of the venture.
- 6 Receive and evaluate recommendations from other Offices on each application, conduct negotiations with the applicant and other concerned parties, return recommendations to Offices for further review, when necessary, and, if differences of opinion cannot be reconciled at the staff level, said differences shall be set forth in the narrative portion of the final recommendations to the Assistant Secretary for Maritime Affairs, or the Director, Office of Subsidy Administration acting under redelegated authority, for final basic determinations.
- 7 When authority to act on an application has not been redelegated to the Director, Office of Subsidy Administration, prepare a formal recommendation to the Assistant Secretary for Maritime Affairs for each Title XI Application. When authority to take final action has been redelegated to the Director, Office of Subsidy Administration, the recommendation will be made to him by the Chief, Division of Ship Financing Guarantees.
- 8 Prepare Form MA-4774, Justification for Billing, against the applicant for Title XI guarantees for investigation, inspection and other services as may be rendered under the Act and for the initial guarantee fee to guarantee the obligation as provided in the Act.
- 9 Arrange for, receive, and analyze documentary evidence on the basis of which the lender or obligee advances funds toward payment of the actual cost of the ship, and furnish copies to interested Offices for their comments.
- 10 Advise the Office of Financial Management whether the elements of actual cost of the ship are reasonable and allowable, and provide the items of proposed capitalizable costs for consideration in computing financial requirements and deposits and disbursements from the escrow or construction funds.

- 11 Collaborate with the Office of the General Counsel in preparing Title XI contracts, addenda, and other agreements and amendments incorporating the basic conditions for each approved transaction, and in reviewing and analyzing contracts, addenda, and other required agreements or amendments submitted by the applicant.
- 12 With the assistance of other Offices as indicated in this Order, administer all Title XI contracts and assure compliance with contract requirements, including contracts covering ships which are an asset of the Title XI fund.
- 13 In case of default under agreements related to a Title XI contract, take all actions necessary to protect the interests of the United States with the assistance of interested Offices; when appropriate, prepare a formal recommendation to the Assistant Secretary for Maritime Affairs, or to the Director, Office of Subsidy Administration when he is acting under redelegated authority, recommending waiver of default, deferment, declaration of default and payment of insurance or guarantees, or other appropriate action.
- 14 Refer to the Security Officer any security problems arising during processing of an application or administration of the contract.
- 15 Inform the appropriate Washington Offices of closings and location of such closings.
- 16 Prepare Letter of Commitment to applicant for signature of the Secretary, Maritime Administration.
- 17 Prepare letter of notification to shipowner and/or Trustee of payment due date and guarantee fee rate with a copy to the Office of Financial Management (Division of Accounts).
- 18 Collaborate with the Office of Financial Management in determining the investment schedule for the Federal Ship Financing Fund.
- 19 Collaborate with investment brokers and/or with the Department of Treasury on the terms and interest rates on the guaranteed obligations and approve said terms and rates.

5.02 The Office of Financial Management shall:

- 1 Review and analyze financial data, including balance sheets, profit and loss statements, cash flows, and other data submitted or obtained in support of Title XI applications; prepare recommendations to the Office of Subsidy Administration on the financial aspects of applications, including working capital and equity requirements of 46 C.F.R. 298 (General Order 29, Rev.); and advise the Office of Subsidy Administration whether applicants, trustees, or depositories have sufficient financial resources. If information contained in the completed application is not sufficient to accomplish the above reviews and analyses, request from the applicant supplementary or clarifying financial data, as may be necessary.

- 2 Assist and advise the Office of Subsidy Administration and the Office of the General Counsel in documentations concerning financial, accounting, auditing, and related reporting requirements of contracts.
- 3 Advise the Office of Subsidy Administration of bond amortization schedules, sufficiency of stipulated loss values, termination values and lease hires, and computations of depreciated actual costs.
- 4 Obtain and maintain financial reports required under Title XI contracts, including Forms MA-172, and advise the Office of Subsidy Administration of any noncompliance; review periodic financial reports on a timely basis to determine compliance with the financial requirements of the contracts, and advise the Office of Subsidy Administration of noncompliance or potential defaults through the issuance of early warning reports, etc.; and, with the concurrence of the Office of Subsidy Administration and the Office of the General Counsel, grant extensions of time for filing financial reports.
- 5 Maintain records of special funds, such as escrow and construction funds; review reserve funds and deposit requirements established under Title XI contracts, and recommend action to the Office of Subsidy Administration in the event of noncompliance.
- 6 When requested by the Office of Subsidy Administration or with its concurrence, conduct special audits or financial examinations under the Title XI program.
- 7 Where an escrow and/or construction fund is involved:
  - (1) Compute prior to closings at which bond proceeds are to be received by the applicant, and advise the Office of Subsidy Administration of the amounts of bond proceeds to be deposited into the escrow or construction funds and the amounts of interest, if any, from applicant's own funds to be deposited in the escrow fund.
  - (2) Advise the Office of Subsidy Administration of scheduled terminations or required extensions of escrow funds and of the amounts of interest, if any, to be deposited or to be refunded.
  - (3) Compute and advise the Office of Subsidy Administration of the amounts to be returned to the applicant or amounts of bonds to be redeemed upon termination of the escrow agreement or the amounts of interest to be returned to the applicant when excess to the requirements of the escrow fund.
  - (4) Maintain records and process disbursement requests and vouchers for each disbursement from the funds; and, from these records, notify the Office of Subsidy Administration of costs paid for its determination of the final actual cost.

- 8 At the request of, or in collaboration with the Office of the General Counsel, inform Region Finance Officers of amounts to be deposited in escrow and/or construction funds and request their assistance in making deposits of these monies and checks in payment of guarantee fees.
- 9 Request assistance of Region Finance Officers in reviewing financial statements and certifications for compliance with the Title XI financial agreements, and other related services to be performed.
- 10 Compute initial annual guarantee fees and advise the Office of Subsidy Administration of amounts due. Upon the receipt of financial reports, advise the Office of Subsidy Administration of debt to equity ratios for determining the rate of subsequent annual guarantee fees.
- 11 Determine and advise the Office of Subsidy Administration of capitalizable costs and depreciated values of ships for ship financing guarantees.
- 12 Prepare reporting formats reflecting the operations of the various segments of the maritime industry which have vessels insured or guaranteed under Title XI.
- 13 Maintain official accounting records for the Title XI program and issue related financial statements and reports.
- 14 Follow up on sinking fund payments due on Title XI construction loans, mortgages and guaranteed obligations where notices have not been received from trustees; and inform the Office of Subsidy Administration of continued noncompliance.
- 15 Maintain records of sinking fund payments and bond cancellations for purposes of computing annual premium and/or guarantee fees on Title XI obligations for each ship.
- 16 Maintain records of annual premium and/or guarantee fee due dates and notify the Office of Subsidy Administration of any delinquent payments.
- 17 Calculate premiums and guarantee fees annually on an estimated basis to arrive at annual prepayments to be made by shipowners; at close of each premium/guarantee fee year, calculate actual amounts due; and, in the event of an overpayment or underpayment, issue a credit or billing to shipowner, as appropriate.
- 18 Take action to collect Title XI investigation fees; follow up on non-payment of such fees; and, after such follow up, notify the Office of Subsidy Administration of payments received or continued noncompliance.
- 19 Invest escrow fund deposits in U.S. Government securities and make required disbursements from these funds, including payments of interest on shipowner's bonds.

- 20 On the basis of the investment schedules developed in collaboration with the Office of Subsidy Administration, invest the unrequired cash resources of the Federal Ship Financing Fund in obligations of the U.S. Government.
- 21 Maintain files of original Title XI contracts for the duration thereof.

5.03 The Office of the General Counsel shall:

- 1 Review and analyze the Title XI application and all related legal documents and exhibits and prepare a recommendation to the Director, Office of Subsidy Administration on the legal aspects of the application, including the citizenship status of the applicant and other concerned parties.
- 2 Prepare and approve all appropriate contracts, commitments and related documents in collaboration with the Office of Subsidy Administration in conformance with the basic conditions approved by the Assistant Secretary for Maritime Affairs or the Director, Office of Subsidy Administration, acting under redelegated authority. Confer with the applicant's attorneys and those of concerned parties to fulfill the above responsibilities.
- 3 Attend the contract closings of the transactions specified in the Title XI contracts with the applicant and other concerned parties, and insure that all matters are properly consummated. The General Counsel, or an Assistant General Counsel acting for the General Counsel, shall render opinions as to the due authorization, execution, and delivery by the Government, and validity and enforceability of Title XI contracts as are deemed necessary.
- 4 After consummation of each closing transaction, prepare a report and send it to the Office of Subsidy Administration, with copies to interested Offices; send original documents received at closing to the Division of Accounts for safekeeping.
- 5 Advise the Office of Subsidy Administration in all legal matters concerning the administration of Title XI contracts, commitments, and related documents.

5.04 The Office of Ship Construction shall:

- 1 Review and analyze the application, copy of the construction contract between the applicant and the shipbuilder, and the plans and specifications covered by the construction contract as required, and prepare a recommendation to the Office of Subsidy Administration as to:
  - (1) The adequacy of the contract plans and specifications of the vessel(s) proposed for construction, reconstruction or reconditioning, including the engineering characteristics and economic life of the vessel(s), as they relate to the soundness of the undertaking and to the eligibility requirements of the Act and applicable regulations.

- (2) Conformance of the construction contract with requirements of 46 C.F.R. 298 (General Order 29, Rev.), including, but not limited to, those relating to Maritime Administration inspection of construction, furnishing of plans, correspondence, etc., to the Maritime Administration by the builder; use of competitive bidding when appropriate; conformance with "Buy America" regulations; and conformance of payment schedule of ship construction contracts with provisions of 46 C.F.R. 298 (General Order 29, Rev.) relating to payment of costs.
- 2 In the case of sole recourse mortgages covered in the Act, transmit plans and specifications to the Department of the Navy and take other appropriate action for determination of national defense features, in accordance with Maritime Administrative Order 510-1.
- 3 Arrange for receipt and retention of documents, such as working plans, change orders and change correspondence under the construction contract and plan approval, etc., as required, and review such documents to assure that (a) work performed under construction contract conforms with basic requirements of approved plans and specifications; and (b) the Administration has proper records, including microfilms, when appropriate, of plans and ship's papers.
- 4 Conduct periodic inspections of the ship construction, reconstruction, or reconditioning as necessary to assure that the basic requirements of the approved contract plans and specifications are being met. Certify as to the percentage of completion during construction where applicable under Title XI contracts.
- 5 Attend the final trial survey of ships involved, as observer, to insure that basic contract agreements of the construction contract have been met, and advise the Office of Subsidy Administration that the ship is acceptable, or not acceptable, for Title XI ship financing guarantees.

5.05 The Office of Shipbuilding Costs shall review, analyze and prepare recommendations to the Office of Subsidy Administration as to:

- 1 Determination of whether the costs of the proposed project are fair and reasonable, as defined in 46 C.F.R. 298 (General Order 29, Rev.).
- 2 Determination of the elements of cost under its jurisdiction, including changes, and whether the costs thereof are fair and reasonable for inclusion in the final determination of the actual cost of the vessel(s) in accordance with the Act, relying on summarizations of such costs to be provided by the applicant and to be certified to by an officer of the company.



- 3 Determination of eligibility of the items of construction cost in auditor's report for inclusion in the "actual cost."

5.06 The Office of Domestic Shipping shall:

- 1 Review and analyze the application and prepare a recommendation to the Office of Subsidy Administration covering the operating aspects of the undertaking with specific reference to:
  - (1) The need for the particular type of vessel(s) and its prospective utilization, and the physical and economic operating characteristics, especially the operating forms of vessel and voyage expenses, and related costs when applicable.
  - (2) The proposed charters, operating agreements, husbanding agreements, or other contractual agreements of an operational nature.
  - (3) The operating ability of the applicant or designated operator.
  - (4) Any other pertinent operating features within the purview of the Office affecting economic soundness of the project.
- 2 In applications involving reconstruction or reconditioning of vessels, advise the Office of Subsidy Administration whether the vessel(s) meets the criteria for conversion of vessels as set forth in 46 C.F.R. 298 (General Order 29, Rev.).
- 3 When requested by the Office of Subsidy Administration for an application involving reconstruction, reconditioning, or refinancing of a vessel, conduct an inspection of the vessel and review appropriate Coast Guard and American Bureau of Shipping reports relating to the vessel, and report to the Office of Subsidy Administration whether the vessel complies with the requirements of the Act.
- 4 When taking possession by or through the United States of a vessel guaranteed or insured under Title XI, advise the Office of Subsidy Administration as to the operational requirements for taking possession, for returning such a ship to the United States when possession is taken abroad, and for eventual temporary or permanent layup, projecting operating and layup costs under the circumstances presented.
- 5 Collaborate with the Office of Subsidy Administration and the Office of the General Counsel before preparing and distributing bid invitations for the sale of a vessel the title of which has been acquired under foreclosure of a Title XI ship financing guarantee. For the sale of such ships, review bids, advise the Assistant Secretary for Maritime Affairs of the highest

responsive bid, transmit acceptance of bid on behalf of the Assistant Secretary for Maritime Affairs, and prepare a contract of sale or a bill of sale and mortgage (if sold on mortgage terms).

- 6 On a vessel already covered by a First Preferred Mortgage held by the Maritime Administration (other than pursuant to Title XI) review the application for its effect on the mortgage and advise the Office of Subsidy Administration.
- 7 In connection with its authority to approve, renew approval and disapproval of Trustees under provisions of Public Law 89-346, keep the Office of Subsidy Administration and the Office of the General Counsel currently informed of approvals, renewals, and disapprovals.

5.07 The Office of Marine Insurance shall:

- 1 Advise and assist the Office of Subsidy Administration and the Office of the General Counsel in documentation with respect to marine insurance requirements of contracts.
- 2 With the concurrence of the Office of Subsidy Administration and the Office of the General Counsel, take action to determine compliance with marine insurance requirements of the contracts; and submit reports of noncompliance or potential defaults to the Office of Subsidy Administration.

5.08 The Office of Public Affairs shall release, upon receipt, copies of applications to the public in accordance with the Freedom of Information Act requirements.

5.09 The Security Officer, when requested by the Office of Subsidy Administration, shall investigate security problems arising during the processing of the application or administration of the contract, including violations of the Act.


5.10 The Region Directors shall:

- 1 Be responsible for conducting and reporting on condition surveys of ships under the Title XI program, in accordance with the provisions of Maritime Administrative Order 640-5 and 46 C.F.R. 298 (General Order 29, Rev.).
- 2 Upon the request of the Office of Financial Management, conduct audits, examinations, and verifications of capitalizable costs and/or actual costs paid by or on behalf of Title XI applicants and render financial certifications when required.
- 3 Perform periodic financial analyses of reports submitted under Title XI contracts with view toward disclosing potential difficulties of shipowners in meeting required debt obligations (Early Warning System) and submit reports to the Office of Financial Management.

- 4 Upon the request of the Office of the General Counsel, attend the contract closings of the transactions specified in Title XI contracts with the applicant and other concerned parties and to the extent directed by the Office of the General Counsel insure that all matters are properly consummated, including acceptability of certifications given in connection with financial statements issued for Title XI applicants.
- 5 Aid in administration of the Title XI program by furnishing assistance when requested.

5.11 General

Any supplementary data developed by any Office in negotiations with the applicant for Title XI ship financing guarantees, which have the effect of amending the application, shall be submitted and processed in the same manner as the original application in accordance with the provisions of this order.

  
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for Maritime Affairs