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§ 1484.74 How is Cooperator program compliance monitored?

(a) The Compliance Review Staff (CRS), FAS, performs periodic on-site reviews of Cooperators to ensure compliance with this part.

(b) In order to verify that federal funds received by a Cooperator do not supplant private or U.S. industry funds or contributions pursuant to § 1550.20(a)(14), FAS will consider the Cooperator's overall marketing budget from year to year, variations in promotional strategies within a country or region, and new markets.

(c) The Director, CRS, will notify a Cooperator through a compliance report when it appears that Commodity Credit Corporation may be entitled to recover funds from that Cooperator. The compliance report will state the basis for this action.

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

§ 1484.75 How does a Cooperator respond to a compliance report?

(a) A Cooperator shall, within 60 days of the date of the compliance report, submit a written response to the Director, CRS. This response shall include any money owed to Commodity Credit Corporation if the Cooperator does not wish to contest the compliance report. The Director, CRS, at the Director's 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 information 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—COOPERATIVE AGREEMENTS FOR THE DEVELOPMENT OF FOREIGN MARKETS FOR AGRICULTURAL COMMODITIES

Subpart A [Reserved]

Subpart B—Market Access Program

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- 1485.23 Miscellaneous provisions.
- 1485.24 Applicability date.
- 1485.25 Paperwork reduction requirement.

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

§ 1485.10 General purpose and scope.

(a) This subpart sets forth the policies underlying the Commodity Credit Corporation's (CCC) operation of the Market Access Program (MAP), and a subcomponent of that program, the Export Incentive Program/Market Access Program (EIP/MAP). It also establishes the general terms and conditions applicable to MAP and EIP/MAP agreements.

(b) Under the MAP, CCC enters into agreements with nonprofit trade organizations to share the costs of certain overseas marketing and promotion activities that are intended to develop, maintain or expand commercial export markets for U.S. agricultural commodities and products. MAP participants may receive assistance for either generic or brand promotion activities. EIP/MAP participants are U.S. commercial entities that receive assistance for brand promotion activities.

(c) The MAP and EIP/MAP generally operate on a reimbursement basis, and CCC may, at its option, provide such reimbursement either in cash or in CCC commodity certificates.

(d) CCC's policy is to ensure that benefits generated by MAP and EIP/MAP agreements are broadly available throughout the relevant agricultural sector and no one entity gains an undue advantage. The MAP and EIP/MAP are administered by personnel of the Foreign Agricultural Service.

§ 1485.11 Definitions.

For purposes of this subpart the following definitions apply:

Activity—a specific market development effort undertaken by a participant.

Activity plan—a document which details a participant's proposed activities and budget. (*Activity plan* is used in lieu of the term *Marketing plan* to avoid administrative confusion with plans submitted under the Cooperator Foreign Market Development Program.)

Administrator—the Administrator, FAS, USDA, or designee.

Agricultural commodity—an agricultural commodity, food, feed, fiber, wood, livestock or insect, and any product thereof; and fish harvested from a U.S. aquaculture farm, or harvested by a vessel as defined in title 46, United States Code, in waters that are not waters (including the territorial sea) of a foreign country.

APAR—activity plan amendment request.

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

Brand promotion—an activity that involves the exclusive or predominant use of a single company name or logo(s) or brand name(s) of a single company.

CCC—the Commodity Credit Corporation.

Contribution—the cost-share expenditure made by a participant in support of an approved activity.

Credit memo—a notice that a vendor has decreased an amount owed for promotional expenditures at the time the notice is issued.

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

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Deputy Administrator—the Deputy Administrator, Commodity and Marketing Programs, FAS, USDA, or designee.

Division Director—the director of a commodity division, Commodity and Marketing Programs, FAS, USDA.

EIP/MAP—the Export Incentive Program/Market Access Program.

EIP/MAP participant—a U.S. commercial entity which has entered into an EIP/MAP agreement with CCC.

Eligible commodity—the agricultural commodity that is represented by an applicant.

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

Exported commodity—an agricultural commodity that is sold to buyers in, or is donated to, a foreign country.

FAS—Foreign Agricultural Service, USDA.

Foreign third party—a foreign entity that assists, in accordance with an approved activity plan, in promoting the export of a U.S. agricultural commodity.

Generic promotion—a promotion that is not a brand promotion.

Market—a country in which an activity is conducted.

MAP—the Market Access Program.

MAP participant—an entity which has entered into an MAP agreement with CCC.

Participant—a entity which has entered into an agreement with CCC.

Promoted commodity—an agricultural commodity whose sale is the intended result of a promotion activity.

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 which meets the small business size standards published at 13 CFR part 121, Small Business Size Regulations.

SRTG—an association of State Departments of Agriculture referred to as State Regional Trade Group(s).

STRE—sales and trade relations expenditures.

Supergrade—a salary level designation that is applicable to certain non-U.S. employees who direct participants' overseas offices.

Trade team—a group of individuals engaged in an approved activity in-

tended to promote the interests of an entire agricultural sector rather than to result in specific sales by any of its members.

Unfair trade practice—an act, policy, or practice of a foreign government that:

(1) Violates, is inconsistent with, or otherwise denies benefits to the United States under, any trade agreement to which the United States is a party; or

(2) Is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce.

U.S. commercial entity—an agricultural cooperative, producer association authorized by 7 U.S.C. 291, or for-profit firm located and doing business in the United States, and engaged in the export or sale of an agricultural commodity.

U.S. industry contribution—the expenditure made by the U.S industry in support of an approved activity.

USDA—the United States Department of Agriculture.

[60 FR 6363, Feb. 1, 1995, as amended at 61 FR 32644, June 25, 1996; 61 FR 58780, Nov. 19, 1996; 63 FR 29940, June 2, 1998; 63 FR 32041, June 11, 1998]

§ 1485.12 Participation eligibility.

(a) To participate in the MAP, an entity:

(1) Shall be:

(i) A nonprofit U.S agricultural trade organization;

(ii) A nonprofit state regional trade group;

(iii) A U.S. agricultural cooperative; or

(iv) A State agency; and

(2) Shall contribute:

(i) In the case of generic promotion, at least 10 percent of the value of resources provided by CCC for such generic promotion; or

(ii) In the case of brand promotion, at least 50 percent of the total cost of such brand promotions.

(b) To participate in the EIP/MAP, an entity:

(1) Shall be a U.S. commercial entity that either owns the brand(s) of the agricultural commodity to be promoted or has the exclusive rights to use such brand(s);

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(2) Shall contribute at least 50 percent of the total cost of the brand promotion; and

(3) That is a for-profit firm, other than a cooperative or producer association authorized by 7 U.S.C. 291, shall be a small sized entity.

(c) CCC may require a contribution level greater than that specified in paragraphs (a) and (b) of this section. In requiring a higher contribution level, CCC will take into account such factors as past participant contributions, previous MAP funding levels, the length of time an entity participates in the program and the entity's ability to increase its contribution.

(d) CCC may require an EIP/MAP applicant to participate through an MAP participant.

(e) CCC will enter into MAP or EIP/MAP agreements only where the eligible agricultural commodity is comprised of at least 50 percent U.S. origin content by weight, exclusive of added water.

(f) CCC will not enter into an MAP or EIP/MAP agreement for the promotion of tobacco or tobacco products.

[60 FR 6363, Feb. 1, 1995, as amended at 61 FR 58780, Nov. 19, 1996]

§ 1485.13 Application process and strategic plan.

(a) *General application requirements.* CCC will periodically publish a Notice in the FEDERAL REGISTER that it is accepting applications for participation in MAP and EIP/MAP. Applications shall be submitted in accordance with the terms and requirements specified in the Notice. An application shall contain basic information about the applicant and the proposed program, a program justification and a strategic plan.

(1) *Basic applicant and program information.* (i) All MAP and EIP/MAP applications shall contain:

(A) The name and address of the applicant;

(B) The name of the Chief Executive Officer;

(C) The name and telephone number of the applicant's primary contact person;

(D) The name(s) of the person(s) responsible for managing the program;

(E) Type of organization—see § 1485.12(a)(1);

(F) Tax exempt identification number, if applicable;

(G) Activity plan 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) Percentage of CCC resources requested for brand activities that will be made available to small-sized entities;

(K) Total dollar amount of CCC resources requested;

(L) Percentage of CCC resources requested for general administrative costs and overhead; and

(M) Estimated cumulative carry-over—i.e., the estimated amount of unexpended funds allocated to the applicant in any prior year;

(ii) Applications submitted by non-profit entities shall also contain:

(A) A description of the organization;

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

(C) A list of affiliated organizations;

(D) A description of management and administrative capability;

(E) A description of prior export promotion experience;

(F) Value, in dollars, that the applicant will contribute;

(G) Applicant's contribution stated as a percent of 1(i)(K) above;

(H) Value, in dollar, of contributions from other sources;

(2) *Program justification.* (i) All MAP and EIP/MAP applications shall contain:

(A) A description of the eligible agricultural commodity(s), its harmonized system code, the commodity aggregate code and the percentage of U.S. origin content by weight, exclusive of added water;

(B) A description of the exported agricultural commodity(s), its harmonized system code, the commodity aggregate code and the percentage of U.S. origin content by weight, exclusive of added water;

(C) A description of the promoted agricultural commodity(s), its harmonized system code, the commodity aggregate code and the percentage of U.S. origin content by weight, exclusive of added water;

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(D) A description of the anticipated supply and demand situation for the exported agricultural commodity(s);

(E) The volume and value of the exported agricultural commodity(s) for the most recent 3-year period;

(F) If the proposal is for two or more years, an explanation why the proposal should be funded on a multiyear basis; and

(G) A certification and, if requested by the Deputy Administrator, 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. The justification shall indicate why the participant is unlikely to carry out the activities without Federal financial assistance. In determining whether federal funds received supplemented or supplanted private or third party funds or contributions, CCC will consider the participant's overall marketing budget from year to year, variations in promotional strategies within a country and new markets.

(ii) Applications submitted by a small-sized entity seeking funds under an EIP/MAP agreement shall contain a certification that it is a small business within the standards established by 13 CFR part 121. For purposes of determining size, a cooperative will be considered a single entity.

(iii) Applicants seeking funds for brand promotion shall contain the information required by §1485.16(g)(1) and (2) in order to justify a rate of reimbursement higher than specified therein.

(3) *Strategic plan.* (i) All MAP and EIP/MAP applications shall contain:

(A) A summary of proposed budgets by country and commodity aggregate code;

(B) A description of the world market situation for the exported agricultural commodity;

(C) A description of competition from other exporters, including U.S. firms, where applicable;

(D) A statement of goals and the applicant's plans for monitoring and evaluating performance towards achieving these goals.

(E) For each country, if applicable, five years of:

(1) historical U.S. export data;

(2) U.S. market share; and

(3) MAP funds received;

(F) For each country, three years of projected U.S. export data and U.S. market share;

(G) Country strategy, including constraint(s) impeding U.S. exports, strategy to overcome constraints, previous activities in the country, the projected impact of the proposed program on U.S. exports;

(H) A justification for any new overseas office;

(I) A description of any demonstration projects, if applicable (see §1485.13(d)(1) through (4));

(J) Data summarizing historical and projected exports, market share and MAP budgets for the world; and

(K) A description of overall program goals for the ensuing 3-5 years;

(ii) MAP applications for brand promotion assistance shall also contain:

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

(B) The criteria that will be used to allocate funds to U.S. and foreign commercial entities; and

(C) A justification for conducting a brand promotion program with foreign commercial entities, if applicable.

(b) CCC may request any additional information which it deems necessary to evaluate an MAP or EIP/MAP application. In particular, CCC may require additional performance measurement, as required by the Government Performance and Results Act of 1993.

(c) *Eligible contributions.* (1) In calculating the amount of contributions that it will make, and the contributions it will receive from a U.S. industry, a foreign third party or a State agency, the MAP applicant may include the costs (or such prorated costs) listed under paragraph (c)(2) of this section if:

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

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

(2) Subject to paragraph (c)(1) of this section, eligible contributions are:

(i) Cash;

(ii) Compensation paid to personnel;

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- (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;
 - (viii) The cost of seasonal greeting cards;
 - (ix) Fees for office parking;
 - (x) The cost of subscriptions to publications;
 - (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 requirements;
 - (xiv) The cost of giveaways, awards, prizes and gifts;
 - (xv) The cost of product samples;
 - (xvi) Fees for participating in U.S. government 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; and
 - (xix) The cost associated with trade shows, seminars, entertainment and STRE conducted in the United States.
- (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 in promoting membership in the participant organization or in promoting the MAP among its members (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 which has the effect of reducing the selling price of an 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 or amendment.
- (4) The Deputy Administrator shall determine, at the Deputy Administrator's discretion, whether any cost not expressly listed in this section may be included by the participant as an eligible contribution.

(d) *Special rules governing demonstration projects funded with CCC resources.* CCC will consider proposals for demonstration projects provided:

- (1) No more than one such demonstration project per constraint is undertaken within a market;
- (2) The constraint to be addressed in the market is a lack of technical knowledge or expertise;
- (3) The demonstration project is a practical and cost effective method of overcoming the constraint;
- (4) A third party participates in such project through a written agreement which provides that title to the structure, facility or equipment may transfer to the third party and that the MAP participant may use the structure, facility or equipment for a period specified in the agreement for the purpose of removing the constraint.

[60 FR 6363, Feb. 1, 1995, as amended at 61 FR 32644, June 25, 1996; 63 FR 29940, June 2, 1998]

§ 1485.14 Application approval and formation of agreements.

(a) *General.* CCC will, consistent with available resources, approve those applications which 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 that cannot be mathematically measured—i.e., market opportunity, market strategy and management capability.

(b) *Approval criteria.* In assessing the applications it receives and determining which it will approve, CCC considers the following criteria:

- (1) The effectiveness of program management;
- (2) Soundness of accounting procedures;
- (3) The nature of the applicant organization, with greater weight given to those organizations with the broadest base of producer representation;
- (4) Prior export promotion or direct export experience;
- (5) Previous MAP funding;
- (6) Adequacy of the applicant's strategic plan in the following categories:
 - (i) Description of market conditions;
 - (ii) Description of, and plan for addressing, market constraints;
 - (iii) Reasonable likelihood of plan success;
 - (iv) Export volume and value and market share goals in each country;
 - (v) Description of evaluation plan and suitability of the plan for performance measurement; and
 - (vi) Past program results and evaluations, if applicable.

(c) *Allocation factors.* After determining which applications to approve, CCC determines how it will allocate resources among participants based on the following factors, in addition to those in paragraph (b) of this section:

- (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 participant's, State's, and industry's contributions;
- (5) Market share goals in target country(ies);
- (6) The degree to which the product to be exported consists of U.S. grown agricultural commodities;
- (7) The degree of value-added processing in the U.S.; and
- (8) General administrative and overhead costs compared to direct promotional costs.
- (9) In the case of a brand promotion program, the percentage of the budget that will be made available to small-

sized entities as a means of providing priority assistance to such entities.

(d) *Approval decision.* (1) CCC will approve those applications which it determines best satisfy the criteria and factors specified above. In addition, CCC will only approve applications for EIP/MAP when there is sufficient U.S. industry need for a brand promotion and there is no eligible MAP participant interested in or capable of undertaking the brand promotion.

(2) CCC will not provide assistance to a single company for brand promotion in a single country for more than five years. This five year period shall not begin prior to the 1994 program or the participant's first activity plan year, whichever is later. In limited circumstances, the five year limitation may be waived if the Deputy Administrator determines that further assistance is necessary in order to meet the objectives of the program.

(e) *Formation of agreements.* CCC will notify each applicant in writing of the final disposition of its application. CCC will send a program agreement, allocation approval letter and a signature card to each approved applicant. The allocation approval letter will specify any special terms and conditions applicable to a participant's program, including the required level of participant contribution. An applicant that decides to accept the terms and conditions contained in the program agreement and allocation approval letter should so indicate by having its Chief Executive Officer sign the program agreement and by submitting the signed agreement to the Director, Marketing Operations Staff, FAS, USDA. Final agreement shall occur when the Administrator signs the agreement on behalf of CCC. The application, the program agreement, the allocation approval letter and these regulations shall establish the terms and conditions of an MAP or EIP/MAP agreement between CCC and the approved applicant.

(f) *Signature cards.* The participant shall designate at least two individuals in its organization to sign program agreements, reimbursement claims and advance requests. The participant shall submit the signature card signed by those designated individuals and by the

participant's Chief Executive Officer to the Director, Marketing Operations Staff, FAS, USDA, and shall immediately notify the Director of any changes in signatories and shall submit a revised signature card accordingly.

[60 FR 6363, Feb. 1, 1995, as amended at 61 FR 32644, June 25, 1996; 63 FR 29940, June 2, 1998]

§ 1485.15 Activity plan.

(a) *General.* A participant shall develop a specific activity plan(s) based on its strategic plan and the allocation approval letter and shall submit an activity plan for each year in which it engages in program activities. An activity plan handbook, available from the Division Director, provides suggested formats and codes for activity plans and amendments.

(b) An activity plan shall contain:

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

(i) A short description of the relevant constraint;

(ii) A description of any changes in strategy from the strategic plan;

(iii) A budget for each proposed activity, identifying the source of funds;

(iv) Specific goals and benchmarks to be used to measure the effectiveness of each activity. This will assist CCC in carrying out its responsibilities under the Government Performance and Results Act of 1993 that requires performance measurement of Federal programs, including the MAP. Evaluation of MAP's effectiveness will depend on a clear statement by participants of goals, method of achievement, and results of activities at regular intervals. The overall goal of the MAP and of individual participants' activities is to achieve additional exports of U.S. agricultural products, that is, sales that would not have occurred in the absence of MAP funding.

(2) A staffing plan for any overseas office, including a listing of job titles, position descriptions, salary ranges and any request for approval of supergrade salaries; and

(3) An itemized administrative budget for any overseas office.

(c) Activity plans for small-sized entities operating through an SRTG shall contain a certification that it is a small-sized entity within the standards established by 13 CFR part 121.

(d) *Requests for approval of "supergrades".* (1) Ordinarily, CCC will not reimburse any portion of a non-U.S. citizen employee compensation that exceeds the highest salary level in the Foreign Service National (FSN) salary plan applicable to the country in which the employee works. However, a participant may seek a higher level of reimbursement for a non-U.S. citizen who will be employed as a country director or regional director by requesting that CCC approve that employee as a "supergrade".

(2) To request approval of a "supergrade", the participant shall include in its activity plan a detailed description of both the duties and responsibilities of the position, and of the qualifications and background of the employee concerned. The participant shall also justify why the highest FSN salary level is insufficient.

(3) Where a non-U.S. citizen 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 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.

(e) *Submission of the activity plan.* A participant shall submit three copies of an activity plan to the Division Director and a copy of the relevant country section(s) to the Attaché/Counselor(s) concerned.

(f) *Activity plan approval.* CCC shall indicate in an activity plan approval letter which activities and budgets are approved or disapproved, and shall indicate any special terms and conditions that apply to the participant including any requirements with respect to contributions and program evaluations. A

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participant may undertake promotional activities directly or through a foreign third party; however, the participant shall be responsible and accountable to CCC for all such promotional activities and related expenditures.

(g) *Activity plan changes.* (1) A participant may request changes to an activity plan by submitting one copy of an APAR to each of the Division Director and the Attaché/Counselor(s) concerned.

(2) An APAR for a new activity shall contain the information required in paragraph (b) of this section. All other APAR's shall contain the activity description, the proposed budget and a justification for transfer of funds, if applicable.

§ 1485.16 Reimbursement rules.

(a) A participant may seek reimbursement for an expenditure if:

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

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

(b) Subject to paragraph (a) of this section, CCC will reimburse, in whole or in part, the cost of:

(1) Production and placement of advertising in print or electronic media or on billboards or posters;

(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 promotional samples;

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

(6) Expenditures, other than travel expenditures, associated with retail, trade, and consumer exhibits and shows; seminars; and educational training; including participation fees, booth construction, transportation of related materials, rental of space and equipment, and duplication of related printed materials;

(7) International air travel, not to exceed the full fare economy rate, or other means of international transportation, and per diem, 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 to exhibit their company's products at a foreign trade show.

(8) Publications;

(9) Part-time contractors such as demonstrators, interpreters, translators and receptionists to help with the implementation of promotional activities such as trade shows, in-store promotions, food service promotions, and trade seminars;

(10) Giveaways, awards, prizes, gifts and other similar promotional materials subject to the limitation that CCC will not reimburse more than \$1.00 per item;

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

(c) Subject to paragraph (a) 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 subject to the limitation that CCC shall 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;

(3) Compensation of a non-U.S. citizen staff employee or non-U.S. contractor subject to the following limitations:

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

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(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.

(4) A retroactive salary adjustment that conforms to a change in FSN salary plans, effective as of the date of such change;

(5) Accrued annual leave at such time when employment is terminated or when required by local law;

(6) Overtime paid to clerical staff;

(7) Daily contractor fees subject to the limitation that CCC will not reimburse any portion of 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;

(8) International travel expenses plus passports, visas and inoculations subject to the limitation that CCC will not reimburse any portion of air travel in excess of the full fare economy rate or when the participant fails to notify the Attache/Counselor in the destination country in advance of the travel unless the Deputy Administrator determines it was impractical to provide such notification;

(9) Per diem subject to the limitation that CCC will not reimburse per diem in excess of the rates allowed under the U.S. Federal Travel Regulations (41 CFR parts 301 through 304);

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

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

(12) An overseas office, including rent, utilities, communications originating overseas, office supplies, accident liability insurance premiums and legal and accounting services;

(13) The purchase, lease, or repair of, or insurance premiums for, capital goods that have an expected useful life of at least one year such as furniture, equipment, machinery, removable fixtures, draperies, blinds, floor coverings, computer hardware and software;

(14) Premiums for health or accident insurance or other benefits for foreign national employees that the employer is required by law to pay;

(15) Accident liability insurance premiums for facilities used jointly with third party participants for MAP activities or for travel of non-MAP participant personnel;

(16) Market research;

(17) Evaluations, if not required by CCC to ensure compliance with program requirements;

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

(19) Employment agency fees;

(20) STRE including 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;

(21) 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, Foreign Affairs Manual, OIS/RA/PSG, Room B-264 Main State, Washington, D.C. 20520, Telephone: 202-736-4881, FAX: 202-736-7214.

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

(23) Domestic administrative support expenses for the National Association of State Departments of Agriculture and the SRTGs;

(24) Generic commodity promotions (see §1486.16(f));

(25) Travel expenditures associated with trade shows, seminars, and educational training conducted in the United States; and

(26) Demonstration projects.

(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 or claims resulting from suits, challenges or disputes emanating from employment terms, conditions, contract provisions and related formalities;

(3) The design and production of packaging, labeling or origin identification, except as described in paragraph (b)(11) of this section.

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

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- (5) Product samples;
- (6) Slotting fees or similar sales expenditures;
- (7) The purchase, construction or lease of space for permanent displays, *i.e.*, displays lasting beyond one activity plan year;
- (8) Rental, lease or purchase of warehouse space;
- (9) Coupon redemption or price discounts;
- (10) Refundable deposits or advances;
- (11) Giveaways, awards, prizes, gifts and other similar promotional materials in excess of \$1.00 per item;
- (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 is restricted by U.S. government action or advisory;
- (16) Independent evaluation or audit, including activities of the subcontractor if CCC determines that such a review is needed in order to ensure program compliance;
- (17) Any arrangement which has the effect of reducing the selling price of an agricultural commodity;
- (18) Goods and 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;
- (23) Seasonal greeting cards;
- (24) Office parking fees;
- (25) Subscriptions to publications;
- (26) Home office domestic administrative expenses, including communication costs;
- (27) [Reserved]
- (28) Payment of U.S. and foreign employees or contractors share of personal taxes, except as legally required in a foreign country, and;
- (29) Any expenditure made for an activity prior to CCC's approval of that activity or amendment.

(e) The Deputy Administrator may determine, at the Deputy Administrator's discretion, whether any cost not expressly listed in this section will be reimbursed.

(f) For a generic promotion activity involving the use of company names, logos or brand names, the MAP participant must ensure that all companies seeking to promote U.S. agricultural commodities have an equal opportunity to participate in the activity.

(g) For a brand promotion activity, CCC will reimburse at a rate equal to the percentage of U.S. origin content of the promoted agricultural commodity or at a rate of 50 percent, whichever is the lesser, except that CCC may reimburse for a higher rate if:

(1) There has been an affirmative action by the U.S. Trade Representative under Section 301 of the Trade Act of 1974 with respect to the unfair trade practice cited and there has been no final resolution of the case; and

(2) The participant shows, in comparison to the year such Section 301 case was initiated, that U.S. market share of the agricultural commodity concerned has decreased; and

(3) In such case, CCC shall determine the appropriate rate of reimbursement.

(h) CCC will reimburse for expenditures made after the conclusion of participant's activity plan year provided:

(1) The activity was approved prior to the end of the activity plan year;

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

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

[60 FR 6363, Feb. 1, 1995, as amended at 61 FR 3548, Feb. 1, 1996; 61 FR 24206, May 14, 1996; 61 FR 32644, June 25, 1996; 63 FR 29940, June 2, 1998; 63 FR 32041, June 11, 1998]

§ 1485.17 Reimbursement procedures.

(a) A format for reimbursement claims is available from the Division Director. 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;

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(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; and

(8) If applicable, any amount previously claimed that has not been reimbursed.

(b) All claims for reimbursement shall be submitted by the participant's U.S. office to the Director, Marketing Operations Staff, FAS, USDA.

(c) In general, CCC will not reimburse a claim for less than \$10,000 except that CCC will reimburse a final claim for a participant's activity plan year for a lesser amount.

(d) CCC will not reimburse claims submitted later than 6 months after the end of a participant's activity plan year.

(e) If CCC reimburses a claim with commodity certificates, CCC will issue commodity certificates with a face value equivalent to the amount of the claim which shall be in full accord and satisfaction of such claim.

(f) If CCC overpays a reimbursement claim, the participant shall repay CCC within 30 days the amount of the overpayment either by submitting a check payable to CCC or by offsetting its next reimbursement claim.

(g) If a participant receives a reimbursement or offsets an advanced payment which is later disallowed, the participant shall within 30 days of such disallowance repay CCC the amount owed either by submitting a check payable to CCC or by offsetting its next reimbursement claim.

(h) The participant shall report any actions having a bearing on the propriety of any claims for reimbursement to the Attache/Counselor and its U.S. office shall report such actions in writing to the Division Director(s).

§ 1485.18 Advances.

(a) *Policy.* In general, CCC operates MAP and EIP/MAP on a reimbursable basis. CCC will not advance funds to an EIP/MAP participant or to a MAP participant for brand promotion activities.

(b) *Exception.* Upon request, CCC may advance payments to an MAP partici-

pant for generic promotion activities. Prior to making an advance, CCC may require the participant to submit security in a form and amount acceptable to CCC to protect CCC's financial interests. Total payments advanced shall not exceed 40 percent of a participant's approved annual generic activity budget. However, CCC will not make any advance to an MAP participant where an advance is outstanding from a prior activity plan year.

(c) *Refunds due CCC.* A participant shall expend the advance on approved generic promotion activities within 90 calendar days after the date of disbursement by CCC. A participant shall return any unexpended portion of the advance, plus a prorated share of all proceeds generated (*i.e.*, premiums generated from certificate sales and interest earned), either by submitting a check payable to CCC or by offsetting its next reimbursement claim. All checks shall be mailed to the Director, Marketing Operations Staff, FAS, USDA.

§ 1485.19 Employment practices.

(a) An MAP participant shall enter into written contracts with all employees and shall ensure that all terms, conditions, and related formalities of such contracts conform to governing local law.

(b) An MAP participant shall, in its overseas office, 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) An MAP participant may pay salaries or fees in any currency (U.S. or foreign) if approved by the Attache/Counselor. However, participants are cautioned to consult local laws regarding currency restrictions.

§ 1485.20 Financial management, reports, evaluations and appeals.

(a) *Financial management.* (1) An MAP participant shall implement and maintain a financial management system that conforms to generally accepted accounting principles.

(2) An MAP participant shall institute internal controls and provide written guidance to commercial entities participating in its activities to ensure

their compliance with these provisions. Each participant shall maintain all original records and documents relating to program activities for five calendar years following the end of the applicable activity plan year and shall make such records and documents available upon request to authorized officials of the U.S. Government. An MAP participant shall also maintain all documents related to employment such as employment applications, contracts, position descriptions, leave records and salary changes, and all records pertaining to contractors.

(3) A 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:

(i) Receipts for all STRE (actual vendor invoices or restaurant checks, rather than credit card receipts);

(ii) Original receipts for any other program related expenditure in excess of \$25.00;

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

(iv) Copies of reimbursement claims;

(v) An itemized list of claims charged to each of the participant's CCC resources accounts;

(vi) 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

(vii) Documentation supporting contributions 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 audit documentation related to claimed contributions.

(4) Upon request, a participant shall provide to CCC originals of documents supporting reimbursement claims.

(b) *Reports.* (1) End-of-Year Contribution Report. Not later than 6 months after the end of its activity plan year, a participant shall submit two copies of a report which identifies, by activity and cost category and in U.S. dollar equivalent, contributions made by the participant, the U.S. industry and foreign third parties during that activity plan year. A suggested format of a contribution report is available from the Division Director.

(2) *Trip reports.* Not later than 45 days after completion of travel (other than local travel), an MAP participant shall 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 a brief summary of findings, conclusions, recommendations or specific accomplishments.

(3) *Research reports.* Not later than 6 months after the end of its activity plan year, an MAP participant shall submit a report on any research conducted in accordance with the activity plan.

(4) A participant shall submit the reports required by this subsection to the appropriate Division Director. Trip reports and research reports shall also be submitted to the Attache/Counselor concerned. All reports shall be in English and include the participant's agreement number, the countries covered, date of the report and the period covered in the report.

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

(6) A participant shall provide to the FAS Compliance Review Staff upon request any audit reports by independent public accountants.

(c) *Evaluation—(1) Policy.* (i) 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 MAP. Evaluation of 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 results of activities at regular intervals. The overall goal of the MAP and of individual participants' activities is to achieve additional exports of

U.S. agricultural products, that is, sales that would not have occurred in the absence of MAP funding. A participant that can demonstrate additional sales compared to a representative base period, taking into account extenuating factors beyond the participant's control, will have met the overall objective of the GPRA and the need for evaluation.

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

(iii) An MAP participant shall conduct periodic evaluations of its program and activities and may contract with an independent evaluator to satisfy this requirement. CCC reserves the right to have direct input and control over design, scope and methodology of any such evaluation, including direct contact with and provision of guidance to the independent evaluator.

(2) *Types of evaluation.* (i) An activity evaluation is a review of an activity to determine whether such activity achieved the goals specified in the activity plan. Unless specifically exempted in the activity plan, all activity evaluations shall be completed within 90 days following the end of the MAP participant's activity plan year.

(ii) 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 activity plan. These evaluations shall be completed within 90 days following the end of the participant's activity plan year.

(iii) A program evaluation is a review of the MAP participant's entire program or any appropriate portion of the program to determine the effectiveness of the participant's strategy in meeting specified goals. An MAP participant shall complete at least one program evaluation each year. Actual scope and timing of the program evaluation shall be determined by the MAP participant and the Division Director and specified in the MAP participant's activity plan approval letter.

(3) *Contents of program evaluation.* A program evaluation shall contain:

(i) The name of the party conducting the evaluation;

(ii) The activities covered by the evaluation (including the activity numbers);

(iii) A concise statement of the constraint(s) and the goals specified in the activity plan;

(iv) A description of the evaluation methodology;

(v) A description of additional export sales achieved, including the ratio of additional export sales in relation to MAP funding received;

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

(vii) Recommendations for future programs.

(4) An MAP participant shall submit via a cover letter to the Division Director, an executive summary which provides assessment of the program evaluation's findings and recommendations and proposed changes in program strategy or design as a result of the evaluation.

(5) If as a result of an evaluation or audit of activities of a participant under the program, CCC determines that further review is needed in order to ensure compliance with the requirements of the program, CCC may require the participant to contract for an independent audit of the program activities.

(d) *Appeals.* (1) The Director, Compliance Review Staff (Director, CRS) will notify a participant through a compliance report when it appears that CCC may be entitled to recover funds from that participant. The compliance report will state the basis for this action.

(2) A participant may, within 60 days of the date of the compliance report, submit a response to the Director, CRS. The Director, CRS, at the Director's discretion, may extend the period for response up to an additional 30 days. If the participant does not respond to the compliance report within the required time period or, if after review of the participant's response, the Director, CRS, determines that CCC may be entitled to recover funds from the participant, the Director, CRS, will

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refer the compliance report to the Deputy Administrator.

(3) If after review of the compliance report and response, the Deputy Administrator determines that the participant owes any money to CCC he will so inform the participant and provide the basis for the decision. The Deputy Administrator may initiate action to collect such amount pursuant to 7 C.F.R. Part 1403, Debt Settlement Policies and Procedures. Determinations of the Deputy Administrator will be in writing and in sufficient detail to inform the participant of the basis for the determination. The participant may request reconsideration within 30 days of the date of the Deputy Administrator's initial determination.

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

(5) If the participant 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 participant bears the cost of a transcript; however, the Administrator may have a transcript prepared at CCC's expense.

(6) The Administrator will base the determination on appeal upon information 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 CCC. The participant must exhaust all administrative remedies contained in this subsection before pursuing judicial review of a determination by the Administrator.

[60 FR 6363, Feb. 1, 1995, as amended at 61 FR 32644, June 25, 1996; 63 FR 29941, June 2, 1998]

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§ 1485.21 Failure to make required contribution.

An MAP participant's contribution requirement will be specified in the MAP allocation letter and the activity plan approval letter. The amount specified will be the amount of contribution to be furnished by the applicant and other sources as indicated in the participant's application. The MAP participant shall pay to CCC in dollars the difference between the amount actually contributed and the amount specified in the allocation approval letter. An MAP participant shall remit such payment within 90 days after the end of its activity plan year.

[63 FR 29941, June 2, 1998; 63 FR 32041, June 11, 1998]

§ 1485.22 Submissions.

The participant may make any submissions required by this regulation either by hand delivery to the Director, Marketing Operations Staff, FAS, USDA or by commercial service delivery or U.S. mail. If delivery occurs by commercial "next-day" mail service or U.S. regular mail, first class prepaid, the material shall be deemed submitted as of the date of the commercial service or U.S. registered mail receipt. For all other permissible methods of delivery, the material shall be deemed submitted as of the date received by the Director, Marketing Operations Staff, FAS, USDA.

§ 1485.23 Miscellaneous provisions.

(a) *Disclosure of program information.*
(1) Documents submitted to CCC by 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 C.F.R. 1.11, Handling Information from a Private Business.

(2) If requested by a person located in the United States, a participant shall provide a copy of any document in its possession or control containing market information developed and produced under the terms of its agreement. The participant may charge a fee not to exceed the costs for assembling, duplicating and distributing the materials.

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(3) The results of any research conducted by a participant under an agreement, shall be the property of the U.S. Government.

(b) *Ethical conduct.* (1) A participant shall conduct its business in accordance with the laws and regulations of the country in which an activity is carried out.

(2) Neither an MAP participant nor its affiliates shall make export sales of agricultural commodities and products covered under the terms of the agreement. Neither an MAP participant nor its affiliates shall charge a fee for facilitating an export sale. A participant may, however, collect check-off funds and membership fees that are required for membership in the participating organization. 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.

(3) An MAP participant shall not limit participation to members of its organization. The MAP participant shall publicize its program and make participation possible for commercial entities throughout the participant's industry or, in the case of SRTGs, throughout the corresponding region.

(4) A participant shall select U.S. agricultural industry representatives to participate in 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, a participant shall submit such selection criteria to CCC for approval.

(5) All participants should endeavor to ensure fair and accurate fact-based advertising. Deceptive or misleading promotions may result in cancellation or termination of an agreement.

(6) The participant must report any actions or circumstances that have a bearing on the propriety of the program to the Attache/Counselor and its U.S. office shall report such actions in writing to the Division Director.

(c) *Contracting procedures.* (1) Neither the Commodity Credit Corporation (CCC) nor any other agency of the United States Government or any offi-

cial or employee of the CCC or the United States Government has any obligation or responsibility with respect to participant contracts with third parties.

(2) A participant shall:

(i) Ensure that all expenditures for goods and services reimbursed, in excess of \$25.00, by CCC are documented by a purchase order, invoice, or contract and that such documentation demonstrates competition in acquiring the goods or services;

(ii) Ensure that no employee or officer participates in the selection or award of a contract in which such employee or official, or the employee's or officer's family or partners has a financial interest;

(iii) Conduct all contracting in an openly competitive manner. Individuals who develop or draft specifications, requirements, statements of work, invitations for bids and requests for proposals for procurement of any goods or services shall be excluded from competition for such procurement;

(iv) Base solicitations for professional and technical services on a clear and accurate description of the requirements for the services to be procured;

(v) Perform 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.

(d) *Disposable capital goods.* (1) Capital goods purchased by the MAP participant and reimbursed by CCC that are unusable, unserviceable, or no longer needed for project purposes shall be disposed of in one of the following ways:

(i) The participant may exchange or sell the goods provided that it applies any exchange allowance, insurance proceeds or sales proceeds toward the purchase of other property needed in the project;

(ii) The participant may, with CCC approval, transfer the goods to other MAP participants and activities, or to a foreign third party; or

(iii) The participant may, upon Attaché/Counselor approval, donate the goods to a local charity, or convey the goods to the Attaché/Counselor, along

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with an itemized inventory list and any documents of title.

(2) A participant shall maintain an inventory of all capital goods with a value of \$100 acquired in furtherance of program activities. The inventory shall list and number each item and include the date of purchase or acquisition, cost of purchase, replacement value, serial number, make, model, and electrical requirements.

(3) The participant shall insure all capital goods acquired in furtherance of program activities and safeguard such goods against theft, damage and unauthorized use. The participant shall promptly report any loss, theft, or damage of property to the insurance company.

(e) *Contracts between MAP participants and brand participants.* Where CCC approves an application for brand promotion, the MAP participant shall enter into an agreement with each approved brand participant which shall:

(1) Specify a time period for such brand promotion, and require that all brand promotion expenditures be made within the MAP participant's approved activity plan period;

(2) Make no allowance for extension or renewal;

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

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

(5) Include a written certification that the brand participant 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 agricultural commodity as "Product of the U.S.", "Product of the U.S.A.", "Grown in the U.S.", "Grown in the U.S.A.", "Made in America" or other U.S. regional designation if approved in advance by CCC; that such origin identification will be conspicuously displayed, in a manner that is easily observed; and that such origin identification will conform, to the extent pos-

sible, to the U.S. standard of 1/6" (.42 centimeters) in height based on the lower case letter "o". A participant may request an exemption from this requirement. All such requests shall be in writing and include justification satisfactory to the Deputy Administrator that this labelling requirement would hinder a participant's promotional efforts. The Deputy Administrator will determine, on a case by case basis, whether sufficient justification exists to grant an exemption from the labelling requirement;

(7) Specify documentation requirements for a U.S. brand applicant seeking priority consideration for assistance based on eligibility as a small-sized entity;

(8) Require that the U.S. 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) The participant shall require the brand participant to maintain all original records and documents relating to program activities for five calendar years following the end of the applicable activity plan year and shall make such records and documents available upon request to authorized officials of the U.S. Government.

(f) EIP/MAP participants shall ensure that all product labels, promotional material and advertising will identify the origin of the agricultural commodity as "Product of the U.S.", "Product of the U.S.A.", "Grown in the U.S.", "Grown in the U.S.A.", "Made in America" or other U.S. regional designation if approved in advance by CCC; such origin identification is conspicuously displayed in a manner that is easily observed, and that, to the fullest extent possible, the origin identification conforms to the U.S. standard of 1/6" (.42 centimeters) in height based on the lower case letter "o". An EIP/ MAP participant may request an exemption from this requirement. All such requests shall be in writing and include justification satisfactory to the Deputy Administrator that this labelling requirement would hinder a participant's promotional efforts. The Deputy Administrator will determine, on a case

by case basis, whether sufficient justification exists to grant an exemption from the labelling requirement;

(g) Travel shall conform to U.S. Federal Travel Regulations (41 CFR parts 301 through 304) and air travel shall conform to the requirements of the “Fly America Act (49 U.S.C. 1517).” The MAP participant shall notify the Attaché/Counselor in the destination countries in writing in advance of any proposed travel.

(h) *Proceeds.* Any income or refunds generated from an activity, *i.e.*, participation fees, proceeds of sales, refunds of value added taxes (VAT), the expenditures for which have been wholly or partially reimbursed, shall be repaid by submitting a check payable to CCC or offsetting the participant’s next reimbursement claim. However, where CCC reimburses a participant with CCC commodity certificates, such participant may retain any income generated by the sale of such certificates.

[60 FR 6363, Feb. 1, 1995, as amended at 61 FR 3548, Feb. 1, 1996; 61 FR 32644, June 25, 1996]

§ 1485.24 Applicability date.

This Subpart applies to activities that are approved in accordance with the participant’s 1995 program and corresponding activity plan year.

§ 1485.25 Paperwork reduction requirements.

The paperwork and record keeping requirements imposed by this final rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. OMB has assigned control number 05510027 for this information collection.

PART 1486—EMERGING MARKETS PROGRAM

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