



U.S. Department
of Transportation
Maritime
Administration

MANUAL OF ORDERS

MARITIME ADMINISTRATIVE ORDER

REVOKES

NO. 520-1
Amendment 2

EFFECTIVE DATE
April 17, 1997

SUBJECT

ADMINISTRATION OF TITLE XI FEDERAL SHIP FINANCING GUARANTEE PROGRAM

The purpose of this amendment is to clarify existing policies and procedures of the Maritime Administration (MARAD) in evaluating applications filed pursuant to Title XI of the Merchant Marine Act, 1936, as amended. Although current regulations and practices encompass the clarifications enumerated below, it is important that MARAD continue to practice sound economic and financial analysis and, therefore this amendment is being issued. This amendment is not meant to supersede current law or regulations but to be used in conjunction with existing law, regulations, and policy. This amendment is intended only to improve the internal management of MARAD and is not intended to create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, MARAD, its officers, or any person.

Accordingly, the basic order is amended as follows:

Insert new section 3.02 as follows:

3.02 Economic Considerations. The following policies shall be observed in evaluating applications for Title XI loan guarantees:

- 1 Although the financed asset is an important part of MARAD's security in a Title XI loan guarantee, the economic soundness of the project and the ability of the borrower to repay the indebtedness shall be the basis for all approvals. The asset's collateral value shall only be a secondary consideration in determining an applicant's ability to repay a loan.
- 2 Where an operator has an historical performance record, this record shall be considered in evaluating the operating ability of the applicant. For newly formed entities, the performance of affiliates and/or companies associated with the principals (where the principals have a fair degree of control) shall be evaluated in determining the operating ability of the applicant. However, unless the affiliates or principals have an obligation with respect to the debt, historical performance shall not be considered in evaluating the credit-worthiness of the application.
- 3 The economic soundness criteria used in the Title XI loan review process will require that all projects include shipping/hire rates based on market conditions as they exist or are projected to exist at the time of vessel delivery, taking into account seasonal or temporary fluctuations. In cases where market conditions are inadequate for the applicant to service the debt at the time of vessel delivery, applications may be approved only if there are sufficient outside sources of


cash flow to service the debt. In the absence of long-term employment contracts, revenue shall be predicated on the estimates of supply-demand conditions, including the impact that additional tonnage will have on the market, by industry experts, government experts, and other sources of objective data as needed by MARAD to make a finding of economic soundness.

- 4 When applicants contribute equity in the form of a vessel or equipment or any other property or service, in the absence of a true arms' length transaction, the value of the equity should not exceed the amount determined through a comparison to fair market value established by an independent appraiser or such lesser amounts determined through other methods, such as depreciated actual cost, applied by the Secretary.
- 5 The Title XI loan guarantee approval process should give primary consideration to operating cash flow to debt-service ratios of more than 1:1 on existing debt. Operating cash flow is defined as earnings before interest, taxes, depreciation and amortization less cash taxes and capital expenditures. Debt service is defined as interest plus principal.

Renumber existing section 4.04 to read 4.05.

Insert new section 4.04 as follows:

4.04 While all offices involved in the administration of Title XI applications shall be guided by the Economic Considerations in 3.02 of this order as they relate to the offices' area of responsibilities, the Office of Ship Financing shall have primary responsibility for insuring that all recommendations for Title XI loan guarantees adequately address the Economic Considerations in 3.02 of this order.


A. J. Herberger
Maritime Administrator