

## **SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSIONS**

### **A. JUSTIFICATION**

#### Summary

Title I of the Food for Peace Act (7 U.S.C. 1691) (provided upon request) provides for U.S. government financing of sales of U.S. agricultural commodities to recipients (foreign countries or private entities). Within the U.S. Government, the Foreign Agricultural Service (FAS) of the U.S. Department of Agriculture (USDA) is the agency responsible for administering Food for Peace, Title I (Title I) agreements.

In accordance with the law, an agreement providing for long-term credit financing is first negotiated with the recipient through diplomatic channels. After an agreement has been signed, the recipient applies to FAS for authorization to purchase each commodity provided in the agreement. A purchase authorization is issued which provides for financing of commodity sales by the Commodity Credit Corporation (CCC), the USDA agency authorized by law to provide financing for Title I. The purchase authorization specifies, among other things, the general commodity grade(s) and specifications; the approximate quantity of the commodity; the maximum dollar amount authorized; and, the contracting and delivery periods. The importing government must purchase commodities on the basis of an invitation for bids (IFB). Successful commodity suppliers must report the terms of all sales to USDA.

At least 75 percent of the gross tonnage of commodities purchased under Title I must be shipped on privately owned U.S.-flag commercial vessels to the extent such vessels are available at fair and reasonable rates, according to P.L. 664 (the Cargo Preference Act) (provided upon request). If ocean transportation is required to a country where there is no U.S.-flag vessel coverage, a foreign flag vessel will be used at its prevailing rate. For most Title I sales agreements, CCC financing of ocean freight is limited to payment of the ocean freight differential, if any, which exists between foreign flag and U.S.-flag rates, when U.S.-flag vessels must be used. Occasionally, an agreement may also provide long-term credit financing by CCC of the balance of the ocean transportation costs. Ocean freight differential is determined by the Director, Food Assistance Division, Office of Capacity Building and Development, FAS/USDA. The recipient must send the pertinent terms of all proposed ocean freight contracts, regardless of whether any portion of the ocean freight is financed by CCC, to FAS for review and approval before the vessel is "fixed" (i.e., contracted).

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

<b>Information Required for Collection</b>	<b>Reason for Information Collection</b>	<b>Legal Requirement</b>
Shipping Agent Nomination	Must be submitted by prospective agents appointed by Food for Peace, Title I recipient countries. Provides information about the agent and the agent's business practices. Reviewed by USDA to ensure there are no potential conflicts of interest.	Food for Peace, Title I, Financing Regulations Section 17.4(a)
Commodity Supplier Approval	Prospective commodity suppliers must submit background and financial information in order for their contracts to be eligible for Title I financing.	Food for Peace, Title I, Financing Regulations Section 17.5(a)
Declaration of Sale Form FAS-359	Commodity suppliers must report contract details so that USDA can insure that each sale conforms to the offer, the terms of the Invitation for Bids and the provisions of the Purchase Authorization.	Food for Peace, Title I, Financing Regulations Section 17.7(b) Section 17.7(e)
Request for Vessel Approval Form CCC-105	Terms of all vessel charters are needed to ensure that Title I recipients comply with the requirement that U.S.-flag vessels carry 75 percent of the tonnage shipped under this program.	Food for Peace, Title I, Financing Regulations Section 17.8(c) Merchant Marine Act of 1936, Sections 901(b)
Record Keeping	Suppliers of commodities and ocean freight must keep accurate records and accounts with respect to all Title I contracts for three years after final payment.	Food for Peace, Title I, Financing Regulations Section 17.11

2. Indicate how, by whom, and for what purpose the information is to be used. Indicate the actual use the agency has made of the information received from the current collection.

Shipping Agent Nomination – Prospective shipping agents must provide background information on their companies the first time in each fiscal year they are nominated by a Food for Peace, Title I recipient company. The information is reviewed by USDA to ensure that there are no potential conflicts of interest.

Commodity Supplier Approval – Information submitted by prospective commodity suppliers is reviewed by USDA to evaluate the ability of the company to perform if awarded a sale under the Food for Peace, Title I program. Non-performance could disrupt the orderly purchasing process for importers or result in commodity shortages or added costs.

Declaration of Sale (Form 359) – Commodity suppliers must report the details of each sales contract and any amendments. USDA reviews the terms of sale to ensure compliance with the Invitation for Bids, the Purchase Authorization and the Title I regulations. USDA also evaluates the sales price to ensure that it is within the prevailing range of export market prices. Without this information, USDA could not ensure program compliance.

Request for Vessel Approval - The information submitted on CCC Form-105 is used by USDA to ensure that program recipients comply with P.L. 664 (Cargo Preference Act) and the Merchant Marine Act of 1936, as amended. USDA also uses the information to prepare Form CCC-105, “Advice of Vessel Approval,” which specifies what part of the ocean freight rate will be financed by CCC. The supplier must present Form CCC-105 to receive payment when CCC finances any portion of the ocean freight.

Record Keeping – Commodity and freight suppliers must retain records for three years after final payment. Accurate files must be available for review by auditors and investigators.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Shipping Agent Nomination/Commodity Supplier Approval – There are no specific formats for this collection. Transmittal is by hard copy. The shipping agents have established an acceptable computerized format, which has simplified their reporting.

Declaration of Sale (Form 359) – The respondent submits preliminary request for commodity approval by telephone and receives telephonic approval from FAS. When the program is active, Form 359 is available in a pdf format, which can be emailed or downloaded from the FAS internet home page (<http://www.fas.usda.gov>). The signed

copy of Form 359 may be prepared by hand, typewriter, or computer. The program is not currently active so the Form is not available electronically or on the website.

Request for Vessel Approval (Form CCC-105) - The respondent submits the preliminary request for vessel approval by telephone and receives telephonic approval from FAS. When the program is active, Form CCC-105 is available in a pdf format, which can be emailed or downloaded from the FAS internet home page (<http://www.fas.usda.gov>). The signed copy of Form CCC-105 may be prepared by hand, typewriter, or computer. The program is not currently active so the Form is not available electronically or on the website.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

There is no duplication of this information, which is different for each participant, sales contract or voyage (freight contract). Consequently, there is no previous information available that could be used or modified.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

Close coordination between USDA and participating companies keeps the burden to a minimum. The information collected is readily available to the respondent and would not present an additional hardship to a small firm. The information required in Forms 359 and CCC-105 is the key information contained in any commodity or ocean freight contract.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If collection were less frequent, USDA would not be able to determine eligible program participants for each fiscal year. Information is required for each commodity sale or amendment in order to determine conformity with the Invitation for Bids and Purchase Authorization so that payment can be made. If the vessel approval information collection were less frequent, there would be no effective way for USDA to ensure that 75 percent of the Title I tonnage moved on U.S-flag vessels in order to comply with the Cargo Preference Act. In addition, it would be more difficult for USDA to issue a prompt and accurate Form CCC-106, "Advice of Vessel Approval." This would delay payment to the ocean freight supplier, who must present a copy of Form CCC-106 in order to receive payment. If records were not maintained, it would be impossible for USDA to conduct program audits or investigations of potential fraud.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- requiring respondents to report information to the agency more often than quarterly;

The Declaration of Sale Form FAS-359 must be prepared after each sale is completed. Information on the Request for Vessel Approval Form CCC-105 must be submitted as soon as possible after each freight contract is concluded. Information submitted on a quarterly basis would delay payment to commodity and freight suppliers. It would also make it more difficult for USDA to accurately monitor the current status of its compliance with the U.S.-flag shipment provisions of the Cargo Preference Act.

- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;

There are no such special circumstances.

- requiring respondents to submit more than an original and two copies of a document;

Form FAS-359 is a preprinted form with an original and five (5) carbon copies. After the form is signed, USDA/Foreign Agricultural Service retains the original and one copy for its records, one copy is sent to USDA/Commodity Credit Corporation, and the remaining copies are returned to the supplier to be submitted with other required payment documents.

- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;

There are no such special circumstances.

- in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;

There are no such special circumstances.

- requiring the use of a statistical data classification that has not been reviewed and approved by OMB;

There are no such special circumstances.

- that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data

security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use or;

There are no such special circumstances.

- requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There are no such special circumstances.

8. Provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 C.F.R. 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received.

The agency's notice soliciting comment on the information collection was published in the Federal Register on November 16, 2009. (See Attachment) No comments were received.

The following respondents were contacted by email, the others by phone:

Ravi Singh, Trans Global Services, L.L., [rsingh@transglobal-services.com](mailto:rsingh@transglobal-services.com)

Todd Burich, ADM Rice, 914-366-7126

Jon Kamka, Cargill, 952-742-6022

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

There are no payments or gifts provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

There is no assurance of confidentiality provided in the regulations. USDA/FAS policy is to maintain the confidentiality of individual and business information. However, the commodity sales information reported on Form FAS-359 is not assured confidentiality since it is submitted at an open public Invitation for Bid and is available to all competing commodity suppliers.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

No questions of a sensitive nature are asked.

12. Provide estimates of the hour burden of the collection of information.

The total annual hour burden for information collection and record keeping is 11 hours (see attached chart). In FY 2009, information collection and record keeping was performed by 9 respondents. There were a total of 18 responses, with each response requiring an average of 0.58 hours. The estimates were developed based on discussion with program participants. The estimated annualized cost to respondents for this annual hour burden is approximately \$297 based on a salary of \$27 per hour.

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information.

There are no capital or start-up costs related to this information. The information required is readily available to respondents and is maintained by them as a part of their normal business processes.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses, and any other expense that would not have been incurred without this collection of information.

The annualized cost to the Federal government is estimated at \$2,023 and is attributed to the salary costs of officials administering the program. Four staff in grades 9 to 13 is involved in program administration. (See attached chart) There are no operational expenses or other expenses resulting from this collection of information.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

There are no changes or adjustments.

16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project.

The results of this information collection will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The information on Form FAS-359 and Form CCC-105 is not expected to change. To discard forms which were otherwise usable solely due to an outdated OMB expiration date would result in higher printing costs to the Federal Government. It would also require all respondents to secure copies of the new forms. Accordingly, FAS is seeking OMB approval not to display an expiration date on these forms.

18. Explain each exception to the certification statement identified in Item 19, “Certification for Paperwork Reduction Act Submissions,” of OMB Form 83-I.

There are no exceptions.

**B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS**

The collection of this information does not employ statistical methods.