

Port of Chicago Pipeline



U.S. Customs and
Border Protection

**Pipeline 11-23
December 29, 2011**

TO: Customs Brokers, Importers and Others Concerned

**SUBJECT: Announcement of Centralized Examination Station Application
Period and Selection Process for the Port of Rockford, Illinois.**

Purpose

To advise the importing community that the selection process for a Centralized Examination Station (CES) in the Port of Rockford, Illinois is open and to provide guidelines for the application process.

Scope

This solicitation is for applicants within the jurisdiction of the Port of Rockford, Illinois. Specifically, the applicants should be geographically located within the port limits. The length of the CES agreement will be five years from the date of the written agreement.

The Port Director has determined that only one CES facility is needed to best meet the examination requirements of Customs and Border Protection (CBP), facilitate the movement of cargo in the port, and provide adequate service to the trade community.

Deadlines

Applications to operate a Centralized Examination Station must be received by 4:30 p.m. on Monday, February 27, 2012 (60 calendar days from the date of this notice). Applications received after this date will not be considered.

Public comments must be received by 4:30 p.m. on Monday, January 30, 2012 (first business day after 30 days from the date of this notice).

Background

On January 22, 1993, the Federal Register published a final rule amending Title 19 Chapter 1 of the Code of Federal Regulations (CFR), enacting 19 CFR 118, Centralized Examination Stations effective February 22, 1993. This change was a result of CBP's efforts to improve productivity and service by focusing resources and minimizing travel time required to perform cargo examinations at multiple facilities within a port of entry (POE).

A CES is a privately operated facility where imported cargo or export cargo, designated by CBP for physical examination, is made available for inspection. The importer, carrier, exporter or its agent is responsible for arranging the bonded transfer of the merchandise to the CES and paying the costs of the transfer, as well as any fees charged by the CES facility for service. However, it must be clearly understood that CBP has the right to decide the location of an import or export cargo exam.

Since the first selection period for the CES program in 1994, CBP has increased its reliance on information technology and non-intrusive exam procedures to more selectively examine shipments entering the United States. Because the quantity of inspections will fluctuate, CES applicants should realize that a minimum number of examinations cannot be guaranteed.

The selected applicant must comply fully with the requirements of Executive Order 12989 dated February 13, 1996 as amended by Section 19 of Executive Order 13286 dated February 28, 2003, particularly with Sections 1(a) and (b), which pertain to the unlawful employment of aliens and anti-discrimination requirements of the Immigration and Nationality Act and of any other applicable law. These requirements apply to all persons working, assigned and/or detailed to the CES facility, including any casual and/or temporary labor utilized by the CES operator. Electronic copies of the Federal Registers that document these Executive Orders are available upon request.

The Department of Labor (DOL) has concluded that all CES written agreements are subject to the Service Contract Act (SCA) and certain provisions of the Federal Acquisition Regulations (FAR). The applicable portions of the FAR are as follows:

52.222-1 (February 1997)
Notice to the Government of Labor Disputes

52.222-41 (July 2005)
Service Contract Act, as Amended

52.222-42 (May 1989)
Statement of Equivalent Rates for Federal Hires

52.222-43 (May 1989)
Fair Labor Standards Act and Service Contract Act – Price Adjustment (Multiple Year and Option Contracts)

The purpose of the Service Contract Act is to:

- Ensure workers are fairly compensated
- Ensure workers receive adequate fringe benefits
- Ensure workers have safe and sanitary working conditions

CBP has reviewed the occupational categories listed in the DOL SCA Directory of Occupations and believes that the following labor categories are appropriate:

- ✓ Forklift Operator
- ✓ Shipping Packer
- ✓ Warehouse Specialist
- ✓ Material Handling Laborer

Responsibilities of a CES Operator

The applicant tentatively selected to operate a CES must sign a written agreement with CBP before commencing operations (19 CFR 118.3). As outlined in 19 CFR 118.4, by signing the agreement the CES operator agrees to:

- (a) Maintain the facility designated as the CES in conformity with the security standards as outlined in the approved application and T.D. 72-56, "Standards for Cargo Security";
- (b) Provide adequate personnel and equipment to ensure reliable service and provide that service on a "first come-first served" basis;
- (c) Assess fees as outlined in the fee schedule included in the approved application;
- (d) Assume responsibility for any charges or expenses incurred in connection with the operation of the CES;
- (e) Maintain, at his own expense, adequate liability insurance with respect to the property within his control and persons having access to the CES;
- (f) Keep current a list of all employees involved in the CES operation;
- (g) Maintain a CBP custodial bond in an amount set by the Port Director;
- (h) Maintain and make available for CBP examination all records connected with the operation of the CES and retain those records for five years from the date of transaction or examination;
- (i) Submit, if requested by CBP, the fingerprints of all employees involved in the CES operation (including all casual and/or temporary labor if utilized);
- (j) Provide office space, parking spaces, designated sanitary facilities, and potable water to CBP personnel at no charge or a charge of \$1 per year;
- (k) Perform in accordance with any other reasonable requirements imposed by the Port Director;
- (l) Provide transportation for merchandise to the CES from within the Port boundaries. This responsibility is optional. If the CES operator chooses to provide transportation, he shall receipt for the merchandise when he picks it up and assume liability for the merchandise at that time.
- (m) Ensure that the CES facility complies with applicable Occupational Safety and Health Act (OSHA) requirements; and
- (n) Comply with all applicable federal, state, and local laws, ordinances and/or regulations, as they would apply to the fulfillment of the responsibilities and service provisions as a designated CES operator.

Action

Application Process

Potential applicants are advised that all materials submitted in the application process become the property of CBP. All information included in the CES application can and/or will be subject to review, investigation, and verification. Information included in the application materials will be utilized to determine an applicant's suitability for consideration in obtaining CES operator privileges.

Specifically, if upon review it is determined that the applicant, officer, managing official, or person the Port Director determines is exercising substantial ownership or control over such operator or officer of the CES, is indicted for, convicted of, or has committed acts which would constitute a felony, a misdemeanor involving theft, or a crime connected with theft, that applicant will be precluded from any further consideration in obtaining CES operator privileges.

Applicants are requested to provide an "Authorization for Release of Information" for all persons who have a direct or indirect financial interest in the proposed CES operation and are officers and/or managing officials of the proposed facility. The submission of this release is voluntary; however, failure to provide the "Authorization for Release of Information" may hinder the investigation process.

Applications must be completed fully and received within 60 calendar days from the date of this issuance. During the first 30 days of that period, the public may submit written comments relevant to the CES program to Patrick Quirk at the Port of Rockford, Illinois. At the end of the 60-day application period, CBP will publish a list of applications, including names, facility addresses, fee schedules, equipment and numbers of employees. At that time, the public will again have 30 calendar days in which to submit written comments to Patrick Quirk at the Port of Rockford, Illinois. At the conclusion of that period, all applications and comments will be reviewed and evaluated and tentative selections will be made. Materials received from the public during the comment period may be used in evaluating and selecting CES locations. All applications and comments should be addressed to:

U.S. Customs and Border Protection
Attn: Patrick Quirk, Port Director
50 Airport Drive
Rockford, Illinois 61109
(815) 968-0661

Application Contents

Each application to operate a CES shall consist of the CES application form, fee schedule, "Authorization for Release of Information" and the following information as

required by 19 CFR 118.11. Any application not providing all of the specified information will not be considered. The responses to paragraphs (b), (c), (d), (e), and (g) of this section shall constitute the criteria used to judge the application:

- (a) The name and address of the facility to be operated as the CES, the names of all principals or corporate officers, and the name and telephone number of an individual to be contacted for further information;
- (b) A description of the CES's accessibility within the Port or other location, and a floor plan of the facility actually dedicated to the CES operation showing bay doors, office space, exterior features, security features, and staging and workspace;
- (c) A schedule of fees clearly showing what the applicant will charge for each type of service. Subject to any special costs incurred by the applicant, such as facility modifications to meet specific cargo handling or storage requirements or to meet CBP security standards, the fees set forth in the schedule shall be comparable to fees charged for similar services in the area to be served by the CES;
- (d) A detailed list of equipment showing that the applicant can make a diverse variety of cargo available for examination in an efficient and timely manner;
- (e) A copy of an approved custodian bond on CBP Form 301. If the applicant does not possess a custodial bond; a completed CBP Form 301 must be included with the application for approval as a prerequisite to selection. The minimum bond amount required by the Port Director is \$250,000;
- (f) A list of all employees involved in the CES operation setting forth their names, dates of birth and social security numbers. (Providing the social security numbers is voluntary; however, failure to do so may hinder the investigation process.);
- (g) Any information showing the applicant's experience in international cargo operations and knowledge of CBP procedures and regulations.

The Fee Schedule

The fee schedule should be detailed enough to show the fees for the various levels of devannings (full, partial, etc.) and also include a listing of all possible charges that an importer may have to pay for all available services. The CES operator agrees that no bonus, rebate, remuneration or anything of value may be offered, paid, or transferred to any person as an incentive or reward for the referral cargo examination business. This does not prohibit legitimate fee arrangements between a CES operator and an importer or broker, such as those based on the prompt payment of CES charges or trade discounts. However, all such arrangements must be included in the CES operator's fee schedule as required by 19 CFR 118.4 and 118.5.

Minimum Requirements and Evaluation

All CES applicants must meet certain minimum standards in order to have their application considered. Failure to meet these minimum standards will preclude further consideration of the application.

The applicant should be aware that CBP facility needs may change and the applicant should be prepared to meet those needs as determined by the Port Director.

Minimum Standards

All applicants must meet the following minimum criteria for CES consideration:

1. An applicant must have an existing operation and a facility with the capability of handling a large volume of cargo and holding cargo intact, including rail and truck trailer cargo. If significant capital expenditure would be required in order for an existing facility to meet security or other physical or equipment requirements necessary for the CES operation, an applicant may request in the application time to conform the facility to such requirements. The Port Director will grant up to 30 days from the date of the signing of the CES **tentative** agreement to bring the facility into conformity with CBP requirements. Once completed, the actual agreement can be signed.
2. The facility must be located within Port limits.
3. The facility must, upon reasonable notice, provide CBP 24-hour access to cargo as necessary.
4. The facility must have sufficient personnel in the warehouse to expeditiously off-load, present, reseal and reload freight to be examined. All equipment such as examination tables, machinery to unload trailers from rail cars, hand trucks, pallet jacks, tools and tape are the responsibility of the operator.
5. A facility must have sufficient floor space and cargo bay doors to handle devanning of ocean containers and LCL shipments. Each cargo door should have enough floor queuing space adjacent to it to allow complete devanning of a container, and provide sufficient room to examine the cargo.
6. Electrical outlets should be easily accessible for use of power tools and other equipment. In addition, a dedicated line (electrical outlet) will be needed to effectively use the non-intrusive equipment (x-ray van) required for some examinations.
7. The facility must also have separate office space for CBP personnel and equipment. The CBP office area should be close to the devanning area. The office space must be equipped with a work station/desk for the CBP Officer. The

office space must have a data jack, two duplex electrical outlets, and a standard phone line. The doors must be equipped with a high security deadbolt locking device and be resistant to pest infestation.

8. Parking for CBP employee vehicles must be provided by the operator.
9. The facility must meet all fire, safety and building codes and should be covered by adequate casualty and liability insurance. In addition, security features must meet the minimum standards outlined in T.D. 72-56.
10. The facility should have trained and knowledgeable staff to handle HAZMAT.
11. The facility should have first aid and an eye wash station available for the CBP Officer use.
12. The facility must include a fenced-in yard for securing containers and trailers pending CBP examination or delivery subsequent to authorized release.
13. The facility must have the ability to accommodate various types of freight, for example, perishable cargo, hanging garment containers, and other cargo that requires special handling.
14. In addition, a facility must be able to accommodate export examinations and coordinate the destruction and appropriate disposal of redelivered merchandise refused entry into the U.S. by CBP or other federal agencies.

CES Evaluation Measures

The following criteria will be used to evaluate CES applicants who have successfully satisfied the minimum standards for selection as a CES. An interview team will visit sites and interview applicants utilizing a standardized rating system.

1. Distance and accessibility of the CES site from major highways and points of cargo discharge.
2. Accessibility for movement and positioning of containers at bay doors or apron positions.
3. Cargo space which exceeds minimum standards, including:
 - (a) Number of container positions
 - (b) Total space available for cargo stripping
 - (c) Average space behind cargo bay doors
 - (d) Examination space beyond minimum
 - (e) High security storage space for seizures/detentions
 - (f) Fenced container storage capacity

4. Security features that exceed the minimum standards outlined in T.D. 72-56, "Standards for Cargo Security".
5. Lighting and electrical outlets immediately adjacent to container positions.
6. Specialized equipment available to allow the CES operator to present a diverse variety of cargo for examination.
7. Physical barrier separation between the CES and other cargo.
8. Availability of CES labor outside normal operating hours (0800-1630).
9. Office space and accommodations for CBP personnel.
10. Experience in international air and ocean cargo operations.
11. Accommodations for CBP enforcement tools.
12. Training and personnel to handle HAZMAT.
13. First aid equipment available for CBP use.
14. Ownership/lease arrangements for the CES facility.
15. Charges or fees connected with the examination of cargo will be reviewed during the evaluation process. If any of these fees are deemed excessive, that fact may be considered in selection.

Applicants should be aware that any designation of CES status covers only the facility described in the application. If any successful applicant changes the location of their facility during the five-year term of the agreement, their status as a CES is terminated.

All applicants must submit a corporate resolution authorizing the signatory to act on behalf of the corporation. Any false statement on the application may result in disqualification and possible prosecution under the provisions of 18 USC 1001.

All applicants are strongly urged to read 19 CFR 118 to obtain a clear understanding of CBP expectations of a Centralized Examination Station applicant and operator.

Following the 60-day announcement period, applications will be reviewed for completeness and adherence to the specified information required. Applications that are mailed must be received or postmarked by the end of the 60-day period in order to be considered.

Copies of the following documents may be obtained from Patrick Quirk at the Port of Rockford, Illinois:

- ✓ CES Application Form;
- ✓ Fee Schedule;
- ✓ "Authorization for Release of Information";
- ✓ Executive Order 12989;
- ✓ Executive Order 13286;
- ✓ Provisions of the Federal Acquisition Regulations;
- ✓ Treasury Decision 72-56

Copies of these documents will be sent electronically or can be picked up at the Port Office. Questions concerning the application process should be directed to Patrick Quirk, Port Director (815) 968-0661.



Carl Ambrosion
Area Port Director
Port of Chicago