

**PORT (TRADE)
INFORMATION
NOTICE**NUMBER: 2008 - 09
ISSUE DATE: December 17, 2007**SUBJECT: Port of Blaine CES Announcement and Selection Process****DISTRIBUTION: Brokers, Importers and Other Interested Parties - Service Port of Blaine, WA**

PURPOSE: This is to announce a 60-day "OPEN SEASON" for applications from interested parties to be considered as a Centralized Examination Station for the Port of Blaine. The 60-day period application will end on February 11, 2008.

BACKGROUND: On February 22, 1993, CES regulatory requirements were adopted by amending Chapter I of Title 19, Code of Federal Regulations to include a new Part 118, entitled Centralized Examination Stations (19CFR 118). The Current CES contract has expired. Due to the need for CES services, the current contract will remain operational until a new contract is placed into effect.

Selection process:

After reviewing all applications and comments submitted under 19 CFR 118.2 the Port Director shall make a final determination on the need for CES facilities, the number of facilities, and select the applicant, or applicants who will be granted authority to operate a CES. The Port Director will select the applicant that best meets the examination needs of the Customs and Border Protection, and facilitates the movement of imported merchandise.

Following the "Open Season", the CBP will issue another Public Bulletin advising the trade community of the applications received and will publish the following information for each applicant: Name of the applicant; Address of the facility; Proposed fee schedule; List of equipment at the facility; and number of employees to be involved in the CES operation. Any interested party will have 30 calendar days from the date of that bulletin to submit written comments for the Port Director's consideration as specified in 19 CFR 118.12. A Public Bulletin will also be issued to advise of the final selection or selections, and the date on which the CES(s) will commence operation. Each applicant not selected to be a CES operator will be notified in writing with a statement of the reason for non-selection.

CES Agreements:

The applicants tentatively selected to operate a CES must sign a written agreement with the Customs Service before commencing operations. The CES regulations and the agreement clearly state the responsibilities of the CES operator. With the completion of this process, we anticipate the CES(s) selected will be designated for a period of three (3) years, with the possibility of an extension of two (2) additional years not to exceed a total five (5) years. CES operators may reapply at the expiration of their agreement in accordance with the regulations. Applicants should carefully review the attached sample CES agreement, which sets forth in detail the responsibilities of CES operators.

Who Needs to Apply:

Anyone interested in being designated, as a CES must apply. This includes current CES operators. Existing CES operators will not be automatically redesignated. They must submit a complete application and will be subject to the same review process as applicants who are not currently CES operators.

ACTION:**Application Process:**

The application to operate a CES must contain specific information as required in 19 CFR 118.11, and as specified in the following list. Per this section of the regulations, applications not providing the required information **will not** be considered.

Those items annotated with an asterisk (*) are the criteria that will be used to judge the applications. However, complete and accurate responses must be provided for all items listed.

- A. Provide the name and address of the facility to be operated as the CES.
- B. Provide a current list of all principals, corporate officers and employees involved in the CES operation giving their names, dates of birth, and social security numbers. Providing social security numbers is voluntary, however failure to provide this information may hinder the investigation process.
- C. Provide the name and telephone number of the individual to be contacted for further information.
- D.* Describe the CES Facility's accessibility, distance from the port, and freeway access point.
- E. Provide 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.

The following configuration criteria for the CES must be completely addressed, as it will be utilized to judge the application.

- 1.* Cargo Doors – Because of the volume of cargo which will require a 100% examination, the CES should have available a sufficient number of doors to accommodate that volume and ensure the maximum flow of CES examinations from devanning to release with minimum delay.
- 2.* Floor space – Each cargo door should have enough floor space adjacent to it to allow complete devanning of the container within that space and provide sufficient room to examine the cargo.
- 3.* Electrical – Outlets should be available at every other door.
- 4.* Lighting – In the examination area lighting must provide sufficient illumination to meet safety considerations and examination requirements. It should include a means of illuminating the interior of the containers or trailers being stripped.
- 5.* Storage Area – Storage space for detained or seized merchandise should be provided adjacent to the work area and should offer a high degree of security.

- 6.* Tractors – One or more tractors should be available for the movement of containers within the complex.
- 7.* Office Space – Adequate office space should be provided for Customs employees, and should be adjacent to the devanning area to allow observation from the office. Office space should include direct access to potable water and sanitary facilities. Separate sanitary facilities must be provided for male and female employees.
- 8.* Parking – Adequate parking must be provided for official Customs vehicles and Customs employee’s vehicles.
- 9.* Storage Space – “Lockable” space for U.S. Customs owned equipment (drills, hammers, scales, etc.) should be provided. Where a significant capital expenditure would be required in order for an existing facility to meet security or other physical requirements necessary for the CES operation, the applicant may request in the application and the Port Director may allow up to an additional 30 calendar days for tentative selection to conform the facility to such requirements. In such a case the CES agreement shall not be executed until those requirements are met. If these requirements are not met the tentative selection will be withdrawn and another applicant will be selected.
- F.* Provide a schedule of fees clearly showing what the applicant will charge for each of the following:
1. Tailgate Examination
 2. 25% Devan
 3. 50% Devan
 4. 75% Devan
 5. 100% Devan

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. The baseline for computing this fee schedule will be a container with 1,000 cartons of non-palletized cargo.

- G.* 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.
- H.* Applicants must submit a copy of an approved custodial bond on a Customs Form 301 in the amount of \$100,000 or greater. If the applicant does not currently possess such a bond, a completed CF 301 must be included with the application for approval as a prerequisite to selection.
- I.* The applicant must agree to comply fully with the requirements of Executive Order 12989 dated February 13, 1996, particularly with Sections 1(a) and (b) which pertain to the unlawful employment of aliens and to the anti discrimination requirements of the Immigration and Nationality Act.
- J.* Applicants must include any information showing the applicants’ experience in the international cargo operations and knowledge of Customs procedures and regulations, or a commitment to acquire such knowledge.
- K.* Applicants must provide any information that relates to other commercial business activities or relationships, and other Customs activities or relationships that are an actual or potential conflict of interest.

L.* Applicants must provide their procedures for the detection, decontamination and removal of hazardous materials.

Application Submission:

All applications must be submitted in writing to the following address:

**U.S. Customs & Border Protection
Attn: Chief Inspector, Cargo Operations
9901 Pacific Highway
Blaine, WA 98230**

Selected CES location(s) must adhere to the requirements established by the Department of Labor under the Service Contract Act (SCA), 41 USC 351 et. Seq.

The below listed clauses of the SCA FAR provisions must be adhered to:

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

**52.222-41 (May 1989)
Service Contract Act of 1965, 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)**

If you have any questions or require any of the publications referenced in this Trade Notice please contact Chief Supervisory CBP Officer Ken Williams at (360) 332-2332 or Chief Supervisory CBP Officer Willie Hicks at (360) 332-2652.

SAMPLE
CENTRALIZED EXAMINATION STATION
AGREEMENT OF UNDERSTANDING

1. Your firm, _____, has been selected as a Centralized Examination Station (CES) within the Port of _____. The physical location of this CES, known as _____, will be at _____.
2. The _____ CES will commence full operation on (date). The CES will be open (days) during the hours of _____ and _____. These days and hours may change in the future, dependent upon the needs of U.S. Customs and the local trade community.
3. This agreement shall be effective for (3 to 5) years from the date of commenced operations cited in section two. This agreement cannot be transferred, sold, inherited, or conveyed in any manner.
4. This agreement may immediately be revoked or cancelled by the district director if it is determined that a violation of 19 CFR 118.21(a) has occurred. The district director subject to violations of 118.21(b) can propose proposed revocation and cancellation.
5. The designation of a CES carries the following specific responsibilities, which the undersigned CES operator understands and agrees to:
 - a. The facility designated as the CES must meet and maintain the security standards for a container station as outlined in TD 72-56 and the CES facility requirements as outlined in the approved application.
 - b. The CES operator, at his/her own expense, agrees to maintain adequate liability insurance with respect to the property within his/her control, and with respect to persons having access to the CES.
 - c. The CES operator affirms that he/she currently holds and will maintain, a Customs custodial activity bond # _____ in the amount of \$ _____ and agrees to its application as a performance bond to the CES program. The CES operator also agrees to increase the amount of this bond if deemed necessary by the district director.
 - d. The CES operator agrees to provide adequate personnel and equipment to ensure reliable service for the opening, presentation for inspection, and closing of all types of cargo designated for examination by Customs on an equitable "first-come first-served" basis to all parties whose cargo has been designated by Customs for examination. The type of equipment furnished will be clean, sound, and of sufficient quantity and/or capacity, to fulfill the requirements of this agreement. The CES operator will provide any necessary accessory equipment, such as forklift trucks, pallets, hand trucks, etc., normally used in the handling of cargo.
 - e. The CES operator will keep current, the list of employee names, dates of birth, and social security numbers (voluntary), of the managing officers, and employees coming in contact with or handling imported merchandise which has not yet been released by Customs. The CES operator will also provide, if requested, the fingerprints of all employees involved in the CES operation. Any changes in employee status must also be provided to the district director in writing within 10 calendar days of the change.

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- f. The CES operator will assume responsibility for any and all damage or injury to persons or property resulting from the use or operation of vehicles or other equipment by employees or agents of said provider in the performance of this agreement.
- g. Customs is not responsible for the payment of any charges or expenses incurred by the CES operator, or any importer, or his agent, or other user of the CES in connection with this agreement. The CES operator will bill the user directly for service rendered, at the established rates.
- h. The CES operator will assess service fees according to the fee schedule included in the CES operators approved application or as changed under the provisions of 19 CFR 118.5. The CES operator must provide 90 calendar days advance written notice to the district director of any proposed fee schedule changes, which will include written justification for any increased or additional fee. Fee changes deemed to be excessive might result in a denial.
- i. The CES operator agrees that he/she is liable for the removal of any merchandise attributable to theft, inadvertence, unusual circumstances, or any other reason, if delivery is not authorized by Customs.
- j. The CES operator agrees that all records connected with the operation of this facility and the CES program will be maintained and made available upon demand by Customs, for a period of not less than 5 years from the date of the transaction or examination conducted pursuant to this agreement.
- k. The CES operator agrees to provide office space, parking spaces, appropriate sanitary facilities, and potable drinking water for the Customs employees assigned to the CES, in accordance with Customs Directive 099 5270-005 Acquisition of Free Space for Customs Use.
- l. The CES operator agrees to provide and maintain any and all services, facilities, and equipment as contained in the approved application.
- m. The CES operator understands that Customs is not responsible for any actions taken by the CES operator or his employees, which are not in accordance with Customs Directives, and applicable laws and regulations.
- n. The CES operator shall hold and save the United States, its officers, agents, servants and employees, harmless from liability of any nature or kind, including costs or expenses for, or on the account of, any and all suits or damages of any character whatsoever relating from injuries to any person or persons and loss or damage to any property, by virtue of performance of this agreement by the provider of service, employees or agents of said provider.
- o. The CES operator will perform in accordance with any other reasonable requirements imposed by the port director.

CES Operator

Port Director

Date

Date

Jay Brandt
Assistant Port Director
Trade Operations

DISCLAIMER: This information has been prepared for your convenience by the CBP office at Blaine, Washington. This material is intended to provide guidance. Recognizing that many complicated factors are involved in Customs matters, an importer may wish to obtain a binding ruling under 19 CFR Part 177. Reliance solely on this information may not be considered reasonable care. Importers are referred to Treasury Decision 97-96, which was published in the **Federal Register** of December 4, 1997, and in the **Customs Bulletin** of December 17, 1997, for in-depth information on the concept of reasonable care.

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