

Functional Series 300: Acquisition & Assistance
ADS Chapter 314 - Eligibility of Delivery Services

Table of Contents

<u>314.1</u>	<u>Authority</u>	<u>3</u>
<u>314.2</u>	<u>Objective</u>	<u>3</u>
<u>314.3</u>	<u>Responsibility</u>	<u>3</u>
<u>314.4</u>	<u>Definitions</u>	<u>3</u>
<u>314.5</u>	<u>POLICY</u>	<u>4</u>
<u>314.5.1</u>	<u>OCEAN SHIPMENT OF GOODS</u>	<u>4</u>
<u>E314.5.1</u>	<u>Ocean Shipment of Goods</u>	<u>4</u>
<u>314.5.1a</u>	<u>WAIVER REQUIREMENTS</u>	<u>4</u>
<u>E314.5.1a</u>	<u>Waiver Requirements</u>	<u>4</u>
<u>314.5.1b</u>	<u>FREIGHT DIFFERENTIAL</u>	<u>4</u>
<u>E314.5.1b</u>	<u>Freight Differential</u>	<u>5</u>
<u>314.5.1c</u>	<u>DESPATCH, DEMURRAGE AND DETENTION</u>	<u>5</u>
<u>E314.5.1c</u>	<u>Despatch, Demurrage and Detention</u>	<u>5</u>
<u>314.5.1d</u>	<u>DEAD FREIGHT</u>	<u>5</u>
<u>E314.5.1d</u>	<u>Dead Freight</u>	<u>5</u>
<u>314.5.2</u>	<u>AIR TRAVEL AND TRANSPORTATION</u>	<u>6</u>
<u>E314.5.2</u>	<u>Air Travel and Transportation</u>	<u>6</u>
<u>314.5.2a</u>	<u>TRANS-SHIPMENT</u>	<u>6</u>
<u>E314.5.2a</u>	<u>Trans-shipment</u>	<u>6</u>
<u>314.5.3</u>	<u>GENERAL TRANSPORTATION REQUIREMENTS</u>	<u>6</u>
<u>E314.5.3</u>	<u>General Transportation</u>	<u>6</u>
<u>314.5.3a</u>	<u>CHARTERS</u>	<u>6</u>
<u>E314.5.3a</u>	<u>Charters</u>	<u>7</u>
<u>314.5.3b</u>	<u>INLAND TRANSPORTATION</u>	<u>7</u>
<u>E314.5.3b</u>	<u>Inland Transportation</u>	<u>8</u>
<u>314.5.3c</u>	<u>DELIVERY SERVICE CHARGES</u>	<u>8</u>
<u>E314.5.3c</u>	<u>Delivery Service Charges</u>	<u>8</u>
<u>314.5.4</u>	<u>VOLUNTARY AGENCIES - OCEAN TRANSPORTATION COSTS</u>	<u>8</u>
<u>E314.5.4a</u>	<u>Reimbursement</u>	<u>9</u>
<u>314.5.5</u>	<u>MARINE INSURANCE</u>	<u>9</u>
<u>E314.5.5</u>	<u>Marine Insurance</u>	<u>9</u>

<u>314.5.6</u>	<u>OTHER DELIVERY SERVICES</u>	<u>9</u>
<u>E314.5.6</u>	<u>Other Delivery Services</u>	<u>9</u>
<u>314.6</u>	<u>Supplementary Reference</u>	<u>9</u>
<u>314.7</u>	<u>Mandatory References</u>	<u>9</u>

Functional Series 300: Acquisition & Assistance
ADS Chapter 314 - Eligibility of Delivery Services

314.1 Authority

1. [The Foreign Assistance Act of 1961, as amended, \(FAA\), Section 604\(a\).](#)
2. [Section 612\(b\) of the FAA.](#)
3. Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. 1371.
4. Section 21 of the International Transportation Competition Act of 1979, [Public Law 96-192](#), 94 Stat. 43.
5. March 31, 1981 Comptroller General's memorandum (B-138942), entitled "Revised Guidelines for Implementation of the Fly America Act.
6. [Section 640C of the FAA.](#)
7. [Section 123 of the FAA](#)
8. [22 CFR 228](#), - Rules On Source, Origin And Nationality For Commodities And Services Financed By USAID

314.2 Objective

To establish requirements governing transportation and delivery services related to shipment of USAID-financed goods. Marine insurance, which is considered a delivery service, is covered in ADS 322.5.1. (See [ADS 322.5.1](#))

314.3 Responsibility

1. Geographic bureaus are responsible for ensuring that assistance instruments reflect USAID's policies on the financing of delivery services.
2. The Bureau for Management, Office of Procurement, Transportation and Commodities Division, Transportation Branch (M/OP/TC/TRANS) is responsible for coordinating commodity transportation activities for USAID, including authorizing waivers, determining when ocean carriers are unavailable, and approving charters, and responsible for administering USAID policies and essential procedures with respect to delivery services.

314.4 Definitions (See [ADS GLOSSARY](#))

AIR WAYBILL
 BOOKING NOTE/BOOKING AGREEMENT
 CARGO PREFERENCE
 CHARTER/CHARTER PARTY

DELIVERY SERVICES
 DESPATCH
 DEMURRAGE
 DETENTION
 INTERMODAL TRANSPORTATION
 LINER SHIPMENT
 U.S. FLAG AIR CARRIER

314.5 POLICY

The statements contained within the .5 section of this ADS chapter are the official Agency policies and corresponding essential procedures.

314.5.1 OCEAN SHIPMENT OF GOODS

USAID shall follow the ocean transportation policies set forth in 22 CFR 228.21 regarding eligibility of ocean transportation service providers. The following sub-policies and essential procedures of 314.5.1 contain additional policies applicable only to ocean shipment of goods. **(See Mandatory Reference, [22 CFR 228.21](#))**

E314.5.1 Ocean Shipment of Goods - N/A

314.5.1a WAIVER REQUIREMENTS

USAID shall follow the policies set forth in 22 CFR 228.55 and 228.56, when waiving ocean transportation eligibility requirements. Officials in the field who have authority to waive source requirements of commodities also have a limited amount of authority to waive the flag eligibility requirements of 22 CFR 228.21. **(See [ADS 103 for applicable redelegations](#))** They may waive only for shipment of commodities for which they, or someone acting in that position, approved a commodity source waiver. **(See Mandatory References, [22 CFR 228.55, 228.56, and 228.21](#))**

E314.5.1a Waiver Requirements

USAID Missions must send a copy of each field-approved transportation waiver to the Bureau for Management, Office of Procurement, Transportation and Commodities Division, Transportation Branch (M/OP/TC/TRANS).

314.5.1b FREIGHT DIFFERENTIAL

Section 640C of the FAA authorizes the use of grant funds to pay host countries for all or part of the differential between generally higher freight costs for U.S. flag vessels and lower cost, foreign flag vessels. USAID

does not receive additional appropriations for this purpose; thus Assistant Administrators must decide when and to what extent USAID shall finance U.S. flag differential with funds available to the Bureau.

E314.5.1b Freight Differential

The following essential procedures must be followed in order to pay freight differential.

- 1) When the responsible Assistant Administrator decides to use funds to compensate recipients for all or part of the differential between freight costs for U.S. and foreign flag vessels, the geographic Bureau must ensure that adequate funds are available and reserved for that purpose.
- 2) The Department of Transportation, Maritime Administration (MARAD), determines a fair and reasonable differential between the proposed U.S. flag rate and the foreign flag rate. M/OP/TC/TRANS submits the request for differential determination to MARAD.
- 3) If U.S.-owned, excess local currency is available, M/OP/TC/TRANS determines if the carrier will accept the part of its payment corresponding to the differential in such currency.

314.5.1c DESPATCH, DEMURRAGE AND DETENTION

It is USAID policy that the host country or the supplier must refund to USAID all despatch earned at the port of unloading on cost, insurance, and freight (C.I.F.) and cost and freight (C&F) shipments. When USAID finances the transportation costs for free on board (F.O.B.) or free alongside (F.A.S.) shipments, despatch earned at either the port of loading or unloading must be refunded to the extent that despatch exceeds demurrage incurred on the same voyage. Demurrage and detention costs are otherwise ineligible for USAID financing.

E314.5.1c Despatch, Demurrage and Detention - N/A

314.5.1d DEAD FREIGHT

USAID shall not finance the costs of dead freight. Dead freight is claimed by a vessel operator for booked or chartered space unoccupied or for cargo weight short-shipped according to the terms of the charter.

E314.5.1d Dead Freight - N/A

314.5.2 AIR TRAVEL AND TRANSPORTATION

USAID shall follow the air transportation policies and essential procedures set forth in 22 CFR 228.22 regarding eligibility of ocean transportation service providers. **(See Mandatory Reference [22 CFR 228.22](#))**

E314.5.2 Air Travel and Transportation

Suppliers, contractors, or grantees who claim payment for use of a non-U.S. flag air carrier must certify in writing with the claim for payment that United States flag air carriers were unavailable and state the reason.

314.5.2a TRANS-SHIPMENT

USAID shall finance costs incurred on air carriers under the flag registry of any free world country if:

- 1) Shipment is made on an air waybill issued by a U.S. flag air carrier covering shipment to the final destination;
- 2) The costs are part of the total cost paid to the U.S. flag air carrier; and
- 3) The first international portion of the flight is on the U.S. flag carrier.

E314.5.2a Trans-shipment - N/A**314.5.3 GENERAL TRANSPORTATION REQUIREMENTS**

The policies and essential procedures relating to charters, inland transportation, and delivery service charges apply to both ocean and air transport.

E314.5.3 General Transportation - N/A**314.5.3a CHARTERS**

USAID shall not finance the cost of any ocean or air charter covering full or part cargo if M/OP/TC/TRANS has not approved the charter prior to shipment. This includes charter parties, booking notes, and booking agreements when those forms of freight contracts incorporate provisions which are in addition to, or which deviate from, the terms of the carrier's standard bill of lading and tariff. If approval for a charter was not requested prior to shipment, M/OP/TC/TRANS may determine that retroactive approval is justified in a particular case such as when it was

not known at the time of shipment that the transaction would be financed by USAID.

Commodities shall be made ineligible for USAID financing if shipped under any ocean or air charter which has not received prior approval of M/OP/TC/TRANS. (See [ADS 312.5.5](#))

E314.5.3a Charters

M/OP/TC/TRANS determines whether the proposed charter is eligible for USAID financing, the rate is fair and reasonable, and the proposed charter conforms to cargo preference requirements, if applicable.

M/OP/TC/TRANS provides approval of the charter, subject to subsequent receipt of a copy of the charter, signed by both parties. Charterers must submit the following information concerning proposed charters to M/OP/TC/TRANS in order to obtain approval:

- 1) The name of vessel or air carrier;
- 2) Flag;
- 3) Commodity;
- 4) Date of shipment;
- 5) Ports of loading/discharge;
- 6) Rate; and
- 7) Demurrage/despatch provisions.

Suppliers who ship goods via charters must include a copy of the approved charter with the payment documentation submitted to USAID.

314.5.3b INLAND TRANSPORTATION

USAID shall finance inland transportation beyond the point of entry in a cooperating country only when:

- 1) Intermodal transportation services covering the carriage of cargo from point of origin to destination is used with a through bill of lading; or
- 2) A waiver is authorized on the basis that the policy is clearly inconsistent with the purposes of the program. Among the considerations which may be cited in granting such a waiver are:

- a. An offset in the host country contribution to the project;
- b. Inability of the host country entity to budget for inland freight; and
- c. Enhanced security and timeliness of delivery.

E314.5.3b Inland Transportation - N/A

314.5.3c DELIVERY SERVICE CHARGES

The price charged for delivery services, including ocean freight, must not exceed the prevailing price or the price paid by the supplier under similar circumstances to other customers.

Ocean freight charges shall not exceed the established rate on file at the Federal Maritime Commission of the U.S, if any, for comparable shipments.

E314.5.3c Delivery Service Charges - N/A

314.5.4 VOLUNTARY AGENCIES - OCEAN TRANSPORTATION COSTS

USAID has the authority to reimburse the American National Red Cross and registered U.S. private voluntary organizations for ocean transportation costs of goods, which have been donated to the organizations or purchased by them without USAID financing.

- a) Such shipments of donated or non-USAID financed goods which are not required to be on U.S. flag vessels by virtue of cargo preference requirements shall be eligible for financing on vessels under flag registry of any country in the free world. **(See [ADS 315](#))**
(Air shipments are covered by the policies in 314.5.2)
- b) USAID may reimburse transportation charges to points of entry, rather than ports of entry when:
 - 1. The destination country is landlocked;
 - 2. Ports cannot be used effectively because of natural or other disasters;
 - 3. Carriers to a specific country are unavailable; or

4. A substantial savings in cost or time can be achieved by the utilization of points of entry other than ports.

E314.5.4a Reimbursement - N/A

314.5.5 MARINE INSURANCE

Eligibility requirements for USAID financing of marine insurance are set forth in 22 CFR 228.23. **(See Mandatory Reference, [22 CFR 228.23](#))**

E314.5.5 Marine Insurance - N/A

314.5.6 OTHER DELIVERY SERVICES

USAID shall follow the policy set forth in 22 CFR 228.24. **(See Mandatory Reference, [22 CFR 228.24](#))**

E314.5.6 Other Delivery Services - N/A

314.6 Supplementary Reference - N/A

314.7 Mandatory References

[22 CFR 228.21](#)

[22 CFR 228.22](#)

[22 CFR 228.23](#)

[22 CFR 228.24](#)

[22 CFR 228.55](#)

[22 CFR 228.56](#)

[ADS 103](#)

[ADS 312](#)

[ADS 315](#)

[ADS 322](#)

314_w082802