



U.S. Customs and  
Border Protection

February 25, 2013

**PORT OF CHARLESTON NOTICE NO: FY2013-012**

**TO:** Importers, Customhouse Brokers, Freight Forwarders, Exporters,  
Carriers and Members of the Trade Community

**SUBJECT:** Centralized Examination Station Solicitation  
Port of Charleston, South Carolina

**PURPOSE**

The purpose of this Information Bulletin is to announce to the local importing community that the selection process for applications to operate a Centralized Examination Station (CES) for the Port of Charleston, South Carolina, is re-opened to solicit applicants and provide guidelines for the application process. The solicitation period commences on February 25, 2013 and expires on April 26, 2013. The initial phase of the selection process will consist of a 60-day application period or "open season." Public comments are also invited. The Area Port Director is required to issue this Information Bulletin pursuant to Title 19, Code of Federal Regulations (CFR) § 118.2.

**DEADLINES**

- Applications to operate a CES must be received by 4:30 p.m. on April 26, 2013 (60 calendar days from the date of this Information Bulletin). Applications received after this date and time will not be considered. Applications found to be incomplete may not be considered.
- Public comments must be received by 4:30 p.m. on March 27, 2013 (30 calendar days from the date of this Information Bulletin)

**SCOPE**

This solicitation is for applicants within the jurisdiction of the Port of Charleston in the State of South Carolina. The length of the CES agreement will be five (5) years from the date of the written CES Agreement between CBP and the applicant selected.

The Area Port Director has determined one (1) CES facility is required in the jurisdiction to best meet the examination requirements of U.S. Customs and Border Protection (CBP), facilitate the movement of cargo in the port, and provide competitive service to the trade community.

## **BACKGROUND**

On January 22, 1993, a final rule was published in the Federal Register amending the Code of Federal Regulations (CFR) enacting 19 CFR § 118 (Appendix E), Centralized Examination Stations, effective February 22, 1993.

The regulations were implemented to increase efficiency and service to the trade community by centralizing and focusing resources and minimizing travel time required in performing cargo examinations at multiple facilities within a port's jurisdiction.

A CES is a non-government owned and operated facility at which import/export merchandise designated by CBP for physical examination is made available for examination. Since the first selection period for the CES program in 1994, CBP has increased efforts to concentrate on higher-risk shipments by relying more on information technology and non-intrusive examination procedures to examine shipments entering or exiting the United States that pose more of a threat and have an associated identified risk. As a result, the number of physical examinations required has decreased, while the quality of those examinations is more thorough.

Applicants should be aware that while utilization of information technology and high-tech equipment enables CBP to be more selective in identifying cargo for examination, the number of physical inspections may fluctuate. CES applicants should recognize that minimum numbers of examinations cannot be established.

## **CES OPERATOR RESPONSIBILITIES**

Applicants tentatively selected to operate a CES must sign a written agreement with CBP before commencing operations (19 CFR § 118.3). Failure to execute a written agreement with CBP in a timely manner will result in the revocation of that applicant's tentative selection and may result in the tentative selection of another applicant or reissuance of the notice soliciting applications.

The applicant selected to operate a CES in the Port of Charleston, as outlined in 19 CFR § 118.4, agrees by signing of the agreement to accept responsibility for the following:

- a) The applicant must 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 and of any other applicable law.
- b) Maintain the facility designated as the CES in conformity especially with the security standards as outlined in the approved application, T.D.72-56 "Standards for Cargo Security" (attached), and CBP Security Policies and Security Physical Security Handbook requirements, implemented August 2009;
- c) Provide adequate personnel and equipment to ensure reliable and expeditious service for the opening, presentation for inspection and closing of all types of cargo designated for examination by CBP. CES Operators shall grant Front of the Line (FOL) privileges to

Tier 3 Customs-Trade Partnership Against Terrorism (C-TPAT) members for the examination of cargo consistent with 6 USC § 966(c)(3) except where granting such privileges may result in damage to other merchandise, such as perishable goods awaiting CBP examination. Service to other importers and carriers must be provided on a "first come-first served" basis;

- d) Assess service fees as outlined in the fee schedule included in the approved application or as changed according to 19 CFR § 118.5 and bill users directly for services rendered;
- e) Assume responsibility for any charges or expenses incurred in connection with the operation of the CES;
- f) Maintain, at his/her own expense, adequate liability insurance with respect to the property within his/her control and persons having access to the CES;
- g) Keep current a list of names, dates of birth, social security numbers (social security numbers are voluntary, but failure to provide them may hinder the investigation process), of all employees to include full-time, part-time, casual and temporary employees, filed with the Port Director pursuant to 19 CFR § 118.11(f). Submit additions to or deletions from the list in writing to the Port Director within ten (10) calendar days of the commencement or termination of an employee's employment;
- h) Maintain a CBP Form 301, Custodial Bond of \$150,000 set by the Port Director. Receive and keep safe all merchandise delivered to the CES for examination. The bond shall include liability for transporting merchandise to the CES from within the district boundaries (see definition of district in 19 CFR § 112). The CES operator assumes such liability when he/she picks up merchandise for transportation to his/her facility. The operator also agrees to increase the amount of the bond if deemed appropriate by the Area Port Director;
- i) Maintain and make available for CBP examination all records connected with the operation of the CES upon request and retain all records for not less than five years from the date of transaction or examination conducted pursuant to the agreement to operate the CES;
- j) Submit, if requested by CBP, the fingerprints of all employees, to include full-time, part-time, casual and temporary employees, involved in the CES operation;
- k) Provide office space, parking spaces, appropriate sanitary facilities and potable water to CBP personnel at no charge or at a charge of \$1 per year;
- l) Perform in accordance with any other reasonable requirements imposed by the Port Director;
- m) Provide transportation for merchandise to the CES from within the district boundaries (see definition of "district" 19 CFR § 112.1) when requested by CBP. In these situations,

CES operator shall receipt for the merchandise when he/she picks it up and assume liability for the merchandise at that time;

- n) Provide written notification to the Area Port Director within ten (10) calendar days of learning that the proposed CES Operator, or any officer, managing official or a person that the Area Port Director determines is exercising substantial ownership or control over such operator or officer, is indicted for, convicted of, or has committed acts which would constitute a felony, or a misdemeanor involving theft or a theft-connected crime;
- o) Ensure that the CES facility complies with all applicable Occupational Safety and Health Act (OSHA) requirements;
- p) 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;
- q) The CES Operator will comply fully with the McNamara-O'Hara Service Contract Act, 41 U.S.C. § 351, *et seq*, applicable regulations promulgated by the Department of Labor, and the Federal Acquisition Regulations (FAR) found at FAR 52.222-1, 52.222-41 through 52.222-43, which are attached hereto and incorporated by reference herein (Appendix F); and
- r) Execute and comply with a Memorandum of Agreement to Reimburse CBP, which outlines the agreement between CBP and the CES operator in regards to the operator's responsibility to reimburse CBP for costs related to providing information technology services at the CES location;

## **APPLICATION PROCESS**

All interested parties must meet the minimum standards identified in this information notice and Appendix A, Attachments One and Two, and must submit the attached CES Application Form (Appendix A) and Fee Schedule (Appendix B) to the Area Port Director, Charleston, South Carolina.

Applicants are requested to provide an Authorization for Release of Information Form (Appendix C) for all persons who have 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 may hinder the investigation process.

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

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

Applications must be received by the Area Port Director on or before April 26, 2013 which is sixty (60) calendar days from the date of issuance of this Information Bulletin. Applications received after the closing date/time will not be considered. Applications found to be incomplete may not be considered. During the first thirty (30) days of this period, the public may submit written comments to the Area Port Director.

**All applications and comments should be addressed to:**

Robert A. Fencel, Area Port Director  
U.S. Customs and Border Protection  
200 East Bay Street  
Charleston, South Carolina 29401

**SELECTION PROCESS**

At the end of the sixty (60) day application submission period, CBP will publish a list of applicants, including names, facility addresses, fee schedules, equipment, and number of employees to be involved in the CES operation. At that time, the public will again be provided thirty (30) calendar days in which to submit written comments to the Area Port Director. At the conclusion of the public comment period, the Area Port Director, based upon a review of all applications under criteria set forth in 19 CFR § 118.11 and any public comments submitted under 19 CFR § 118.2 or 118.12, shall determine whether a CES operator should be selected.

A facility site survey will be conducted for each applicant having timely submitted a complete application package meeting the designated minimum requirements. The purpose of the survey will be to verify the information provided in the application and determine a facility rating.

The facility rating will be determined based on a standardized points system, relative to the specific evaluation criteria contained in the CES Minimum Requirements (Appendix A, Attachments 1 and 2). Additional consideration, in the form of points, will be given to those applicants who exceed the minimum required standards as applicable to the designated evaluation criteria.

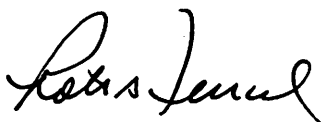
After reviewing all applications, comments submitted pursuant to 19 C.F.R. § 118.2 and 118.12, and the overall facility rating as determined by the CES Review Team, the Area Port Director shall make the final determination on the number of needed CES facilities and tentatively select the applicant(s) that will be granted authority to operate a CES. The applicant selected to operate a CES will be notified in writing by the Area Port Director of his/her tentative selection. The selection shall become final upon execution of the written agreement between CBP and the applicant under 19 CFR 118.3, and the Area Port Director will advise the public of the final selection and of the tentative date on which the CES will commence operations under the agreement in accordance with the notice procedures set forth in 19 CFR § 118.2. Each applicant not selected to be a CES operator will be so notified in writing to include a statement of the reason for non-selection.

If significant capital expenditure would be required to make an existing facility 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. Upon request in the application, the Area Port Director may grant up to sixty (60) days from the date of the Public Bulletin announcing the CES selection(s) to bring the facility into conformity with CBP requirements. If deemed necessary by the Area Port Director, one thirty (30) day extension period may be granted. In such a case, the CES Memorandum of Agreement shall not be executed until those requirements are met. A team of CBP personnel will verify the level of conformity with the requirements prior to the Memorandum of Agreement being executed. If the requirements are not met, the tentative CES selection will be withdrawn and another applicant may be selected.

Applicants should be aware that their designation of CES status covers only the facility described in their application. If any successful applicant changes the location of the facility during the time frame of the agreement, his/her status as a CES is terminated and CBP may initiate a new selection for a replacement CES facility.

Any questions concerning the application process may be directed to Brenda H. Gibson, Assistant Port Director, Trade, at (843) 579-6504.

**DISCLAIMER:** This information has been prepared for your convenience by CBP personnel at the Atlanta Field Office. This material is intended to serve as a guide. Recognizing that many complicated factors are involved in CBP procedures, an applicant may consider an independent and qualified source for assistance in preparing a complete and qualifying application package for CES Operator under this solicitation. Reliance solely on this information may not be considered reasonable care. Applicants are referred to Treasury Decision 97-96, not provided by this bulletin, which was published in the Federal Register of December 4, 1997, and in Customs Bulletin of December 17, 1997, for in-depth information as to what constitutes reasonable care.



Robert A. Fencel  
Area Port Director  
Port of Charleston

#### Attachments

- Appendix A – CES Application, including Minimum Standards Attachments 1 and 2
- Appendix B – CES Fee Schedule
- Appendix C – Authorization for Release of Information
- Appendix D – TD 72-56 Cargo Security Standards and Specifications
- Appendix E – 19 CFR § 118
- Appendix F – FAR 222