

3. Proof of Gross Revenues for Highest 3 Out of 4 Years. Vessel owners must be able to prove the annual gross revenues from the sale of regulated groundfish species for the highest 3 years used on the application. Documentation to support groundfish income may include, but is not limited to, individual or corporate tax returns, or fish sale receipts accompanied by vessel settlement reports. NMFS may require sworn affidavits from the reporting party regarding the accuracy of the information contained in supporting documentation. Sales of regulated groundfish which can not be substantiated Will Not Be Included in the calculation of gross revenues.

Proprietary information submitted by applicants will only be disclosed to Federal officials who are responsible for the FCRDP or otherwise when required by court order.

VII. Establishment of NMFS Financial Services Division Award Terms

Representatives from the NMFS Financial Services Division will establish the specific terms of each grant award for accepted applications validated during the investigation process. These terms will be binding on the applicants and will control the applicant's post award rights and obligations. Terms of the award will address such matters as how the outstanding liens on the vessels will be satisfied and how the vessel covered in the application will be scrapped. At their own expense, applicants will be required to retain closing attorneys to represent their interests. To the extent necessary, closing attorneys will be required to pay grant funds to vessel lienors in return for lien releases. Should vessel liens exceed the amount of the FCRDP award, attorneys must obtain funds from applicants and exchange them for lien releases.

VIII. Grant Award Closing Procedures

After the Assistant Administrator for Fisheries, NOAA, and the NOAA Grants Management Division have reviewed and approved the terms of accepted and validated applications, then applicants will be notified in writing of the grant award and a closing date will be set. Applicants will be required to have an attorney present at the closing. Seventy-five percent of the grant award will be available at the closing. The remaining 25 percent will be available only when applicants have made arrangements for vessel scrapping and other prescraping dispositions acceptable to NMFS. If these arrangements have been made by the time of closing, 100 percent of the grant funds may be available at that

time. Vessel scrapping must occur promptly.

NMFS reserves the right to terminate grant award negotiations with an applicant, if in the opinion of NMFS there are material adverse changes in an applicant's ability to meet the terms and conditions of a FCRDP grant agreement.

IX. Administrative Requirements

A. Primary Applicant Certification

Applicants whose applications are selected for funding will be required to submit a completed Standard Form 424B, "Assurances—Non-Construction Programs" and Form CD-511, "Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

1. *Nonprocurement debarment and suspension.* Prospective participants (as defined at 15 CFR 26.105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

2. *Drug-free workplace.* Grantees (as defined at 15 CFR 26.605) are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

3. *Anti-lobbying.* Persons (as defined at 15 CFR 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than \$100,000, and loans and loan guarantees for more than \$150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

4. *Anti-lobbying disclosure.* Any applicant who has paid or will pay for lobbying using any funds must submit an SF-LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, Appendix B.

5. *Lower tier certifications.* Applicants shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD-512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF-LLL, "Disclosure of

Lobbying Activities." Form CD-512 is intended for the use of recipients and should not be transmitted to the Department. SF-LLL submitted by any tier recipient or subrecipient should be submitted to the Department in accordance with the instructions contained in the award document.

B. Other Requirements

1. *Federal policies and procedures.* FCRDP grant recipients and subrecipients are subject to all Federal laws and Federal and Department policies, regulations, and procedures applicable to Federal financial assistance awards.

2. *Name check review.* Applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the recipient have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the recipient's management, honesty, or financial integrity. A false statement on the application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment (18 U.S.C. 1001).

3. *Financial management certification/preaward accounting survey.* Applicants at the discretion of the NOAA Grants Officer, may be required to have their financial management systems certified by an independent public accountant as being in compliance with Federal standards specified in the applicable Office of Management and Budget (OMB) Circulars prior to execution of the award. Any first-time applicant for Federal grant funds may be subject to a pre-award accounting survey by the Department prior to execution of the award.

4. *Past performance.* Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

5. *Delinquent Federal debts.* No award of Federal funds shall be made to an applicant or to its subrecipients who have an outstanding delinquent Federal debt or fine until either:

a. The delinquent account is paid in full,

b. A negotiated repayment schedule is established and at least one payment is received, or

c. Other arrangements satisfactory to the Department are made.

6. *Buy American-made equipment or products.* Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding under this program.