



Guidelines for Providing Example Contracts, Completing the Optional Contract Submission Cover Sheet, and Documenting Verbal Contracts

GIPSA has developed these guidelines to assist packers in complying with the requirement to provide example contracts. The guidelines include an optional cover sheet for the identification of example contract submissions and an optional documentation sheet for the submission of verbal contracts.

Do I need to provide swine contract information?

You must provide example contracts if you are a packer, as defined in 9 CFR 206.1, purchasing at least 100,000 swine per year and slaughtering swine at a federally inspected swine processing plant that meets either of the following conditions:

- (1) A swine processing plant that slaughtered an average of at least 100,000 swine per year during the immediately preceding 5 calendar years, with the average based on those periods in which the plant slaughtered swine; or
- (2) Any swine processing plant that did not slaughter swine during the immediately preceding 5 calendar years that has the capacity to slaughter at least 100,000 swine per year based on plant capacity information.

What existing or available contracts do I need to provide?

Each packer must send, to GIPSA, an example of each contract it currently has with a producer or producers or that is currently available at each plant that it operates or at which it has swine slaughtered that meets the definition of packer in 9 CFR 206.1. This initial submission of example contracts is due to GIPSA on the first business day of the month following the determination that the plant has the slaughtering capacity specified in the definition of packer in 9 CFR 206.1.

After the initial submission, each packer must send GIPSA an example of each new contract it makes available to a producer or producers within one business day of the contract being made available at each plant that it operates or at which it has swine slaughtered that meets the definition of packer in 9 CFR 206.1.

As contracts are made available, revised, or expire, use the following guidelines to determine when another submission or notification of a change is required.

- Required submission of contract made available: When a contract that represents an example contract is made available, the packer will submit it as an example contract (for discussion purposes, Example contract A).
- Potential subsequent submission due to contract changes: When a contract changes, for example, the contract is made available and negotiations result in a new example contract, the packer will submit the new example contract and specify if it replaces the previously submitted example contract or if it is an additional new example contract (for discussion purposes, Example contract B). Example contracts would not be continuously submitted during negotiations; one would be submitted when made available and, when necessary, another when the negotiation resulted in a contract or when an existing contract changes.

- New additional example contract example: If the packer and the producer agree to a contract with a change, which results in a different example contract (Example contract B) and the packer continues to make Example contract A available to other producers, the negotiated contract will be submitted as a new example contract (Example contract B).
- Replacement example: If, however, in that scenario, the packer no longer makes the original Example contract A available to any other producer and Example contract A is no longer used, then the negotiated contract would be submitted as an example contract to replace the previously submitted Example contract A.
- Notification of example contracts that have expired or that have been withdrawn: When a previously submitted example contract no longer represents any contracts, the packer will notify us that the example contract has expired. When a previously submitted example contract did not result in any contracts and no longer represents any available contracts, the packer will notify us that the example contract was withdrawn.

What criteria do I use to select example contracts?

For purposes of distinguishing among contracts to determine which contract may be represented by a singly example, contracts will be considered to be the same if they are identical with respect to all of the following four example-contract criteria:

- (1) Base price or determination of base price. Base price is defined in 9 CFR 206.1 as “The price paid for swine before the application of any premiums or discounts, expressed in dollars per unit.”
- (2) Application of a ledger or accrual account (including the terms and conditions of the ledger or accrual account provision). A ledger and an accrual account are each defined in 9 CFR 206.1 as “An account held by a packer on behalf of a producer that accrues a running positive or negative balance as a result of a pricing determination included in a contract that establishes a minimum and/or maximum level of base price paid. Credits and/or debits for amounts beyond these minimum and/or maximum levels are entered into the account. Further, the contract specifies how the balance in the account affects producer and packer rights and obligations under the contract.”
- (3) Carcass merit premium and discount schedules (including the determination of the lean percent or other merits of the carcass that are used to determine the amount of the premiums and discounts and how those premiums and discounts are applied).
- (4) Use and amount of noncarcass merit premiums and discounts. A noncarcass merit premium or discount is defined in 9 CFR 206.1 as “An increase or decrease in the price for the purchase of swine offered by an individual packer or packing plant, based on any factor other than the characteristics of the carcass, if the actual amount of the premium or discount is known before the purchase and delivery of the swine.”

How and where do I send my contracts?

Send example contracts or notification of expired or withdrawn contracts to:

Hardcopy

USDA GIPSA
Suite 317
210 Walnut Street
Des Moines, Iowa 50309

Electronic

scl.gipsa.usda.gov
Note: Under Packer Submit Information, select Swine Contracts

FAX

202-720-8300

GIPSA provided you with a user name, password, and electronic signature ID when we informed you that your firm is required to submit information for the swine contract library. This information is required to access the electronic submission process located on the GIPSA web site listed above.

GIPSA also provided you with a packer ID. This information is requested on the Optional Contract Submission Cover Sheet.

The web site can be used to (1) submit contracts, (2) download, complete, and print a fillable Adobe Acrobat (PDF) version of the optional cover sheet or the optional verbal contract documentation sheet for hardcopy submission, or (3) print a blank optional cover sheet or optional verbal contract documentation sheet.

When completing the cover sheet using the fillable Adobe Acrobat file or on the GIPSA web site, press the tab key to move between fields, or click in the desired field.

Web User Guide: Example Contracts contains additional information for using the web interface to submit contracts.

Use one of the following formats for electronically submitted example contracts and attachments: (1) Microsoft Word Document, (2) ASCII text, or (3) RTF.

What are the penalties for not complying?

As specified in section 222(e) of the P&S Act, to willfully fail or refuse to provide accurate information constitutes a violation of the P&S Act. Section 203 of the P&S Act sets forth the procedures that the Secretary is authorized to follow whenever there is reason to believe that any packer has violated or is violating a provision of Title II of the P&S Act. Section 203 of the P&S Act also specifies the sanction that may be assessed if the Secretary determines that a violation has occurred.

How can I get additional information?

If you have questions or need further assistance, please contact the Des Moines Regional office using one of the following methods.

Swine Contract Library Web Site: <http://scl.gipsa.usda.gov>

Phone: 515-323-2579, request to speak to the Swine Contract Library staff

Email: SwineContractLibrary.Gipsa@usda.gov.

Fax: 515-323-2590, attention Swine Contract Library staff

How do I complete the optional cover sheet?

NOTE: The cover sheet is not required to submit example contracts, but it provides information useful in communicating with GIPSA when for providing example contracts.

Identification Information

Items 1-6

NOTE: Items 1-6 will be prefilled when completing the cover sheet via the GIPSA web site.

Item Number	Field Name	Description
1	Packer ID	The identification number assigned to you by GIPSA.
2	Packer Name	The name of the reporting packer.
3	Date of Submission	The date that the contract is being submitted to GIPSA.
4	Federal Inspection Number	The inspection number assigned to the plant by USDA's Food Safety and Inspection Service. When completing the form via the GIPSA web site, you may select the federal inspection number for the plant for which the report is being submitted from the drop down list on Item 4.
5	Plant Name	The name you use to identify the specific plant for which the contract is being submitted.
6	Plant Location	The city and state where the plant is located.

Contact Information

Items 7-9

7	Name	The name of the person who can be contacted if necessary to obtain clarification or correction of information submitted.
8	Title	The title or position of the person identified in item 7.
9	Phone	The phone number at which the person identified in item 7 can be reached.

Contract Information

Items 10-14

10	Contract Name	A name (unique identifier) to use to refer to the example contract. This is used to ease of communications between the plant and GIPSA personnel.
11	Date Effective	The effective date of the example contract.
12	Submission Type	<p>New indicates the example contract was not previously available or was previously submitted but one of the four example-contract criteria has been modified and the previously submitted example contract remains existing or available. You can show the contract name in item 10.</p> <p>Replacement indicates the example contract was previously submitted but one of the four example-contract criteria has been modified and the previously submitted example contract is no longer offered. You can show the name of the new contract in item 10 and the name of the contract being replaced in item 13.</p> <p>Expired notifies GIPSA that a previously submitted contract no longer exists. You can show the name of the expired contract in item 13.</p> <p>Withdrawal of Offer notifies GIPSA that a previously submitted example contract is no longer being offered. You can show the name of the withdrawn contract in item 13.</p>
13	Existing Contract Name	The Contract Name of the previously submitted contract for Replacements, Expirations, or Withdrawals of Offer. Item 10, Contract Name is used for names of contracts currently being submitted.
14	Verbal agreement	<p>Yes indicates this example contract represents an agreement for the purchase of swine for slaughter for which the parties did not execute a document to signify the existence of the agreement.</p> <p>NO indicates this example contract represents an executed document.</p>

Signature

Items 15-17

15	Signature	<p>Signature of person identified in item 16.</p> <p>When completing the cover sheet via the GIPSA web site, you will be asked for your assigned electronic signature ID at the end of the submission process.</p> <p>The cover sheet may be signed after printing the completed cover sheet using the fillable PDF file.</p>
16	Name	The name of the person authorized to submit contracts.
17	Title	The title of the person identified in item 16.

How do I document verbal contracts?

Provide written descriptions for all terms of a verbal contract. GIPSA developed an optional documentation sheet which captures a basic set of contract terms.

Item Number	Field Name	Description
1	Packer ID	The identification number assigned to you by GIPSA.
2	Packer Name	The name of the reporting packer.
3	Federal Inspection Number	The inspection number assigned to the plant by USDA's Food Safety and Inspection Service. When completing the form via the GIPSA web site, you may select the federal inspection number for the plant for which the report is being submitted from the drop down list on Item 4.
4	Plant Name	The name you use to identify the specific plant for which the contract is being submitted.
5	Base Price Determination	A description of terms used to determine base price. This may include a complete description of any reports used and adjustments made to the reported price. For example: AMS National Daily Direct Hogs Morning, Base Market Hog, plus \$1.00
6	Application of Ledger	The terms of the ledger or accrual account. This may include the window or target price and terms regarding application of ledger conditions.
7	Carcass Merit Premiums and Discounts	A description of the carcass merit premiums and discounts. This may include the determination of lean percent or other merits of the carcass that are used to determine the amount of the premiums and discounts and how those premiums and discounts are applied.
8	Noncarcass Merit Premiums and Discounts	A description of any noncarcass merit premiums and discounts used. For example: \$1.50 for delivery before 7:00 am.
9	Length of Agreement	The term or length of the verbal agreement.
10	Other Provisions	A description of any other conditions or terms.