

Guide to Using a U.S. Authorized or Forwarding Agent

Definitions of an authorized or forwarding agent

An authorized agent as defined in the FTR is an individual or legal entity physically located in or otherwise under the jurisdiction of the United States that has obtained power of attorney or written authorization from a USPPI or FPPI to act on its behalf, and to complete and file EEI. The FTR defines a forwarding agent as the party in the United States who is authorized by the U.S. or Foreign Principal Party in Interest to facilitate the movement of the cargo from the United States to the foreign destination and/or prepare and file the required documentation. There are situations when an agent or a forwarder is used in an export transaction. However, some companies handle both agent and forwarder responsibilities. The following are examples to show the differences between an agent and a forwarder.

- The USPPI authorizes an agent to file EEI via the AES on their behalf and further selects a forwarder to move the cargo to the port of export;
- The USPPI authorizes an agent to file and that same agent is responsible for facilitating the movement of the cargo to the port of export;
- The FPPI authorizes the U.S. forwarder to facilitate the movement of the cargo only. However, the FPPI may authorize the USPPI to prepare and file the EEI via the AES. The FPPI must provide the USPPI written authorization to file the shipment on the FPPI's behalf;
- The FPPI authorizes their U.S. forwarder to facilitate the movement of the cargo and file the EEI. The USPPI is responsible for providing the U.S. forwarder with their company and commodity information [See FTR 30.3(e)].

Getting to know your U.S. authorized or forwarding agent

The USPPI should seek to use agents or forwarders that utilize industry best practices and work towards building and maintaining successful relationships. In addition, it is recommended that the USPPI establish strong communication with the management of the agent or forwarding company. This relationship may assist in resolving issues in a timely manner. This is essential to filing complete and accurate export transactions. The FTR emphasizes that all parties involved are responsible for the export requirements process. If the USPPI and their agent maintain an open line of communication this will help to ensure that companies achieve export compliance. A few ways to do this is by scheduling quarterly visits to see how the agent or forwarder manages its operations. This visit may include conducting a walkthrough of the daily operations along with reviewing the steps involved in the AES process. If the USPPI cannot visit the agent or forwarder, both parties should maintain contact via the telephone, email, or fax.

In addition to visiting an agent's or forwarder's facility, it is also recommended that the USPPI perform an audit of their export process twice a year. This should involve comparing EEI with invoices and other shipping documents. By auditing, the USPPI is able to reconcile EEI with any discrepancies, which can be resolved through corrections or Voluntary Self Disclosures. (See

page 27 for specific instructions). Another way to ensure the accuracy of export information is to provide the agent or forwarder with the Schedule B/HTSUSA number and the description of the commodities being shipped.

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This is helpful if the same commodities are exported on a regular basis. This commitment to the business relationship ensures that the USPPI, agent, or forwarder maintain compliance with export reporting requirements.

All parties must comply with the FTR record retention requirements of five years for export documents, in accordance with FTR 30.10. The following are examples but not all inclusive:

- Power of Attorney (Either electronic or paper copy)
- EEI reported via the AES
- Invoices
- Licenses
- Pertinent Export Documents

The USPPI should maintain a “checks and balance” system for keeping an account of the number of shipments that the agent or forwarder filed on its behalf. If a working relationship has not been established it may be difficult to obtain verification for your EEI. The FTR, Section 30.3 grants the USPPI the right to request a copy of the information filed. It is the responsibility of the agent or forwarder to provide such documentation. The agent or forwarder is responsible for providing the documentation to the USPPI in accordance with the FTR. If the agent or forwarder does not want to provide the information, the USPPI should contact the agent or forwarder and inform them that upon request they are required by the above citation. The USPPI should keep a record of all the attempts requesting the AES information. If the USPPI is still unable to obtain your EEI then contact the Regulations, Outreach and Education Branch of the Foreign Trade Division on 800-549-5495 and select Menu Option 3. A staff member will work with you to resolve the problem.

In Summary:

- Build relationships with your agent or forwarder;
- Schedule quarterly visits;
- Conduct an export process audit twice a year;
- Establish a point of contact;
- Develop procedures for record retention.

The next three pages include a sample power of attorney, written authorization and invoice. These samples can be used as references for creating or modifying your existing documentation.

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POWER OF ATTORNEY TO PREPARE OR TRANSMIT ELECTRONIC EXPORT INFORMATION

Know all men by these presents, that _____, the
(Name of U.S. Principal Party in Interest (USPPI))
USPPI organized and doing business under the laws of the State or Country of
_____ and having an office and place of business
at _____ hereby
(Address of USPPI)
authorizes _____, (Authorized Agent)
(Name of Authorized Agent)
of _____
(Address of Authorized Agent)

to act for and on its behalf as a true and lawful agent and attorney of the U.S. Principal Party in Interest (USPPI) for, and in the name, place, and stead of the USPPI, from this date, in the United States either in writing, electronically, or by other authorized means to: act as authorized agent for export control, U.S. Census Bureau (Census Bureau) reporting, and U.S. Customs and Border Protection (CBP) purposes. Also, to prepare and transmit any Electronic Export Information (EEI) or other documents or records required to be filed by the Census Bureau, CBP, the Bureau of Industry and Security, or any other U.S. Government agency, and perform any other act that may be required by law or regulation in connection with the exportation or transportation of any goods shipped or consigned by or to the USPPI, and to receive or ship any goods on behalf of the USPPI.

The USPPI hereby certifies that all statements and information contained in the documentation provided to the authorized agent and relating to exportation will be true and correct. Furthermore, the USPPI understands that civil and criminal penalties may be imposed for making false or fraudulent statements or for the violation of any United States laws or regulations on exportation.

This power of attorney is to remain in full force and effect until revocation in writing is duly given by the U.S. Principal Party in Interest and received by the Authorized Agent.

IN WITNESS WHEREOF, _____ caused these
(Full Name of USPPI/USPPI Company)
presents to be sealed and signed:

Witness: _____ Signature: _____
Capacity: _____
Date: _____

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WRITTEN AUTHORIZATION TO PREPARE OR TRANSMIT ELECTRONIC EXPORT INFORMATION

I, _____, authorize
(Name of U.S. Principal Party in Interest)
_____ to act as authorized agent for
(Name of Authorized Agent)

export control, U.S. Customs, and Census Bureau purposes to transmit such export information electronically that may be required by law or regulation in connection with the exportation or transportation of any goods on behalf of said U.S. Principal Party in Interest. The U.S. Principal Party in Interest certifies that necessary and proper documentation to accurately transmit the information electronically is and will be provided to the said Authorized Agent. The U.S. Principal Party in Interest further understands that civil and criminal penalties may be imposed for making false or fraudulent statements or for the violation of any U.S. laws or regulations on exportation and agrees to be bound by all statements of said authorized agent based upon information or documentation provided by the U.S. Principal Party in Interest to said authorized agent.

Signature: _____
(U.S. Principal Party in Interest)

Capacity: _____

Date: _____