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OFFICE OF FOOD FOR PEACE
INFORMATION BULLETIN

FFPIB 19-03 **DATE:** August 8, 2019

TO: USAID/W and Overseas Distribution Lists; USAID's Office of Food for Peace (FFP) Awardees

FROM: DCHA/FFP, Trey Hicks, Director

SUBJECT: **Award Requirements for Source and Origin of Local, Regional, and International Procurement (LRIP)**

I. Purpose and Background

This Food for Peace Information Bulletin (FFPIB) supersedes FFPIB 16-01, which is hereby rescinded in its entirety, and updates operational definitions for local, regional and international procurement for USAID's Office of Food for Peace (FFP)'s awardees and identifies eligibility criteria for the source and origin of LRIP commodities. FFP aims to ensure that the program is achieving desired objectives both for improvements in cost, time, and appropriateness as well as reinforcing markets for commodities produced within the regions where we work when possible.

The preference remains for the origin of commodities to be most closely tied to the crisis when feasible. However, given the scarcity of desired commodities in local and regional markets at times, international procurement may be the better option. FFP partners are encouraged to look at all the options available and make the best decision based on the modality decision tool.

II. Authority

Agricultural commodity procurements financed with International Disaster Assistance (IDA) or Community Development Funds (CDF) (i.e., Development Assistance) are subject to the statutory requirements of Section 604 of the Foreign Assistance Act (FAA), which preclude procurements from outside the United States, unless authorized by a waiver under certain specific circumstances, subject to 22 CFR 228 and ADS 312 and ADS 310. A blanket waiver for IDA funded activities, allowing procurement of agricultural commodities from outside the United States, was approved by the FFP Director on March 26, 2012.

Title II Food for Peace Act funded awards are not subject to the FAA Section 604 requirements and generally must procure agricultural commodities from the United States, unless Section 202(e) funding is authorized as part of the award to establish or enhance Title II programming.

The information specified in this FFPIB applies to proposed international, local, and regional procurements of agricultural commodities from all funding sources, whether IDA, CDF, or Title II emergency or development funds. Additional approval procedures for CDF-funded programs are noted below. Implementing partners will be held to these requirements per the provisions included in their awards.

III. Definitions

- **Source** – "means the country from which a commodity is shipped to the cooperating/recipient country or the cooperating/recipient country itself if the commodity is located therein at the time of the purchase, irrespective of the place of manufacture or production, unless it is a prohibited source country. Where, however, a commodity is shipped from a free port or bonded warehouse in the form in which received therein, "source" means the country from which the commodity was shipped to the free port or bonded warehouse." (22 CFR § 228.01)
- **Origin** – "means the country where a commodity is mined, grown, or produced. A commodity is produced when, through manufacturing, processing, or substantial and major assembling of components, a commercially recognized new commodity results that is significantly different in basic characteristics or in purpose of utility from its components."[1]
- **Local Procurement** – The purchase of commodities sourced in the country where they will be distributed.
- **Regional Procurement** – For FFP purposes, this means purchase of commodities sourced within the same continent as the country where they will be distributed.
- **International Procurement** – For FFP purposes, this means purchase of commodities sourced outside the continent where they will be distributed; the definition of international procurement does not include procurement from the United States.

IV. Criteria

A. What criteria are necessary to justify local and regional procurement for emergency response?

1. For all proposed LRIP programs, FFP has a preference first for supporting markets impacted by the crisis and second for commodities produced near the crisis-affected area and on the Organization for Economic Development (OECD) Development Assistance Committee (DAC) list for Least Developed, Other Lower Income, and Lower Middle Income countries. **Procurement from any Upper Middle Income country or Upper Income country requires a waiver with FFP director approval, unless the country has experienced a crisis.** The market in which we procure is the source, and the country in which commodities are produced is the origin. Thus, order of preference is:
    i. Local source and local origin
    ii. Local source and regional origin
    iii. Local source and international origin
    iv. Regional source and regional origin
    v. Regional source and international origin
    vi. International source and origin
2. If the proposed procurement is from a non-OECD DAC Least Developed, Other Lower Income, or Lower Middle Income countries, including India, Syria, WB/Gaza, and Jordan, a waiver from the FFP

[1] See Glossary of ADS Terms available at: https://www.usaid.gov/sites/default/files/documents/1868/ADS_glossary.pdf

Director is required.

3. In general, the source and origin order of preference should serve as a baseline, but other conditions may serve as a basis for using a less preferred source/origin combination.

   i. **Appropriateness –** Every LRIP application should exercise due diligence to determine that procurements will not have adverse impacts on source markets. If markets at any given tier of proximity cannot safely support procurement, proceed to the next level up. Note: There may also be situations in which commodity distribution of any kind could negatively impact recipient country markets, in which case cash transfers or food vouchers should be considered.

   ii. **Cost Efficiency –** Each application proposing LRIP should either include analysis of costs relative to U.S. in-kind commodities or document why U.S. in-kind commodities could not be used to respond (e.g., security conditions will not permit, genetically modified organism restrictions). If a partner proposes a choice lower on the source/origin order of preference, they must adequately document that the options at higher levels of priority are either insufficient to meet needs or not cost competitive with the option the partner recommends.

   iii. **Timeliness –** An argument that LRIP will reduce procurement lead time should only be invoked where conditions have deteriorated in ways that could not be predicted in time to plan for in-kind contributions. A pipeline break for a protracted crisis is not a strong basis to invoke timeliness as a justification for use of LRIP commodities.

V. Other Considerations

B. Are there any other restrictions on local and regional procurement aside from source/origin?
Yes, partners must procure from countries that are:

1. Not on the U.S. government's list of foreign policy restricted countries (See Automated Directives Series (ADS) 310mac). Currently there are no prohibited source countries.

For CDF funded activities:

1. If the commodity is available under the Food for Peace Act as listed by FFP in the Commodity and Ocean Freight Estimates, then the Agency's preference is to procure that commodity via Title II funding. CDF funds may be used to finance procurement of the commodity if: (a) Title II funds are inadequate; (b) a determination is made that procuring the commodities from the U.S. would be impracticable and not in furtherance of USAID's purpose; (c) the commodities are not available in sufficient quantities in the U.S. to meet the requirements; and (d) there are no other reasons for excluding the commodity from the USAID award. Approval for such procurements must follow the process specified in ADS 312.3.3.1.c(2).
2. Per ADS 312.3.3.1.b, USAID will not finance the procurement of non-U.S. agricultural commodities or products when the U.S. price is below "parity" (defined as a specific price formula published monthly by the U.S. Department of Agriculture in its Agricultural Prices

Report[2]) unless the commodity cannot reasonably be produced in the U.S. in fulfilment of the objectives of the assistance program. If the U.S. price for that commodity is below the "parity price" then procurement of that commodity outside of the U.S. requires approval as outlined in ADS 312.3.3.1.b(2). If no parity price exists or if the U.S. price is equal to or above the parity price, then no further approval is required.

3. Note that both of the above approval requirements are in addition to the source and nationality requirements set forth in ADS 310.

C. Where does prepositioning fit into the order of preference?

In a rapid onset emergency, and if Title II funding is available, prepositioning should strongly be considered as an available option.

D. Do LRIP commodities have to have special branding and marking?

Standard USAID requirements apply. Commodities should be properly marked with the USAID identity, or the partner should submit a request for a branding and marking waiver properly documenting why it is not feasible and/or advisable in the operational context.

F. Can WFP source from their Global Commodity Management Facility (GCMF) (formerly the Forward Purchase Facility) for an FFP award?

Yes, but only if all of the conditions above have also been met. The source for WFP's GCMF commodities is the country where the commodity was purchased. The GCMF regional hub does not qualify as a source for these purposes.

G. If a waiver is required, what does FFP need from the Applicant/Awardee?

We recommend that the Applicant/Awardee submit the necessary information on source and origin and a strong justification for the use of the commodities as soon as possible to FFP. Early communication with FFP is key.

VI. FFPIB Amendments/Modifications:

FFP may issue amendments/modifications to any FFPIB. However, subject to statutory requirements, the FFP Director may waive a particular provision in this FFPIB under extraordinary circumstances.

[2] The monthly report includes a section titled "Commodity Parity Prices and Price as Percent of Parity Price" which includes commodities such as wheat, rice, corn, chickpeas, lentils, sorghum grain, and soybeans, among others. If the specified commodity is not listed in the table, or the subsequent table marked "Commodity Parity Prices" (which largely contains fruits and nuts), then no further approvals to authorize procurement of non-USA agricultural commodities are required.

VI. References

- OECD DAC List: http://www.oecd.org/dac/stats/daclist.htm
- 22 CFR 228 – Rules for Procurement of Commodities and Services Financed by USAID
- ADS 312 – Eligibility of Commodities
- ADS 310 – Source and Nationality Requirements for Procurement of Commodities and Services Financed by USAID