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**BUREAU FOR HUMANITARIAN ASSISTANCE
FUNCTIONAL POLICY
EXTERNAL BULLETIN**

DATE: October 1, 2020

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

I. Purpose and Background

This Bureau for Humanitarian Assistance (BHA) Functional Policy (BHAFP) 20-03 supersedes Food for Peace Information Bulletin (FFPIB) 19-03¹, which is hereby rescinded in its entirety, and updates operational definitions for local, regional, and international procurement (LRIP) of food commodities for USAID/BHA's awardees and identifies eligibility criteria for the source and origin of LRIP food commodities. BHA aims to ensure that the program is achieving desired objectives in cost effectiveness, timeliness, and appropriateness as well as reinforcing markets for food commodities produced within the regions where we work when possible.

The preference remains for the origin of LRIP food commodities to be most closely tied to the crisis when feasible. However, given the scarcity of desired food commodities in local and regional markets at times, international procurement may be the more appropriate option. BHA partners are encouraged to look at all the options available and make the best decision based on the [Modality Decision Tool for Humanitarian Assistance](#).

II. Authority

Food 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](#).

Title II Food for Peace Act-funded awards are not subject to the FAA Section 604 requirements and generally must procure food 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 BHAFP applies to proposed local, regional, and international procurements of food commodities from all funding sources, whether IDA, CDF, or Title II Section 202(e) funds. Additional

¹ FFPIB 19-03 is in effect until October 1, 2020.

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”²
- **Local Procurement** – The purchase of commodities sourced in the country where they will be distributed
- **Regional Procurement** – The purchase of commodities sourced within the same continent as the country where they will be distributed
- **International Procurement** – The purchase of commodities sourced outside the continent where they will be distributed. Note the definition of international procurement does not include procurement from the United States.

IV. Criteria

What criteria are necessary to justify local, regional, and international procurement for emergency response?

For all proposed LRIP activities, BHA 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 Director approval from the Offices of Office of Global Policy, Partnerships, Programs, and Communication (G3PC), and relevant geographic offices (MENAE, ALAC, AFR), unless the country has experienced a crisis.**³ The market in which food commodities are procured is the source, and the country in which commodities are produced is the origin. Thus, order of preference is:

1. Local source and local origin
2. Local source and regional origin
3. Local source and international origin
4. Regional source and regional origin
5. Regional source and international origin
6. International source and origin

² See Glossary of ADS Terms available at: https://www.usaid.gov/sites/default/files/documents/1868/ADS_glossary.pdf

³ Waivers should be shared with relevant BHA Deputy Assistant Administrators for awareness.

If the proposed procurement is from a country that is not affected by the crisis to which the proposed activities are responding and is not in the Least Developed Countries, Other Lower-Income Countries, or Lower-Middle-Income Countries columns of the OECD DAC list, a waiver from the BHA G3PC Office Director is required. A waiver is also required for procurement from India, Syria, West Bank/Gaza, Jordan, and Nicaragua.

In general, the source and origin order of preference should serve as a default, but other conditions may serve as a basis for using a less preferred source/origin combination. Please refer to the U. S. Government humanitarian assistance [Modality Decision Tool](#) with specific attention to:

- **Appropriateness** – Every application including LRIP of a food commodity 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.
- **Cost Efficiency** – Each application proposing LRIP of a food commodity 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, or genetically-modified organism restrictions exist, etc.). 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 are not cost competitive with the option the partner recommends.
- **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 food commodities.

V. Other Considerations

Does this policy on locally, regionally, and internationally-procured commodities apply to the procurement of non-food items (NFIs)?

- No. This policy applies only to the procurement of food commodities financed with Title II 202(e) funds, International Disaster Assistance (IDA), or Community Development Funds (CDF) (i.e., Development Assistance).

Are there any other restrictions on local, regional, and international procurement aside from source/origin?

- Yes. Partners must procure from countries that are 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. Partners are also reminded that it is their responsibility to be aware of relevant U.S. Government sanctions regulations that may impact the types of transactions they may enter into and the individuals and entities that they may engage with in using U.S. Government funds under their awards.

For CDF-funded activities:

- If the commodity is available under the Food for Peace Act as listed by BHA 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 United States would be impracticable and not in furtherance of USAID's purpose; (c) the commodities are not available in sufficient quantities in the United States 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).
- Per ADS 312.3.3.1.b, USAID will not finance the procurement of non-U.S. food 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 Report⁴) unless the commodity cannot reasonably be produced in the United States in fulfillment 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 United States 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.
- Note that both of the above approval requirements are in addition to the source and nationality requirements set forth in ADS 310.

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.

Do LRIP commodities have to have special branding and marking?

- Standard USAID requirements apply.⁵ Commodities should be properly marked with the USAID identity, or, in rare circumstances, 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.

Can WFP source from their Global Commodity Management Facility (GCMF) (formerly the Forward Purchase Facility) for a BHA 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 country where the GCMF warehouse is located does not qualify as a source for these purposes. WFP should

⁴ 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-U.S. food commodities are required.

⁵ Please refer to [ADS Chapter 320 - Branding and Marking](#) for up to date USAID policies on branding and marking.

provide the source country for GCMF commodities upon request.

If a waiver is required, what does BHA 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 BHA. Early communication with BHA is key.

VI. BHAFP Amendments/Modifications:

BHA may issue amendments/modifications to any BHAFP. However, subject to statutory requirements, the BHA Assistant to the Administrator may waive a particular provision in this BHAFP under extraordinary circumstances.

VI. References

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