

Foreign Agricultural Service, USDA

§ 1590.6

§ 1590.6 Procurement of eligible commodities.

(a)(1) When using funds provided by FAS under the USDA LRP Program to make a local or regional procurement of food, including through the use of food vouchers, the recipient, or a sub-recipient, must procure eligible commodities.

(2) The agreement will specify the types of eligible commodities approved for procurement; the approved purchase country(ies); and the approved method(s) of procurement (local procurement, regional procurement, food vouchers, or a combination of these methods). The agreement will prohibit the recipient from procuring eligible commodities from any country not specified in the agreement or utilizing methods of procurement that differ from those approved in the agreement.

(b) In carrying out an agreement, the recipient must comply with the following requirements, as applicable, relating to the procurement of eligible commodities under the agreement:

(1) The recipient must procure eligible commodities at a reasonable market price with respect to the economy of the purchase country, as determined by FAS.

(2) If the recipient procures eligible commodities that are grains, legumes, and pulses, the commodities must meet the food safety standards of the target country; provided, however, that if the target country does not have food safety standards for grains, legumes, and pulses, then the recipient must ensure that such commodities meet the Codex Alimentarius Recommended International Code of Practice: General Principles of Food Hygiene CAC/RCP 1-1969 Rev 4-2003, including Annex *Hazard Analysis and Critical Control Point (HACCP) System and Guidelines*.

(3) If the recipient procures eligible commodities that are food products other than grains, legumes or pulses, such as processed foods, fortified blended foods, and enriched foods, the commodities must comply, in terms of raw materials, composition, or manufacture, unless otherwise specified in the agreement, with the Codex Alimentarius Recommended International Code of Practice: General Principles of Food Hygiene CAC/RCP 1-

1969 Rev 4-2003 including Annex *Hazard Analysis and Critical Control Point (HACCP) System and Guidelines*.

(4) If the recipient procures eligible commodities that are cereals, groundnuts, or tree nuts, or food products derived from or containing cereals, groundnuts, or tree nuts, the commodities must be tested for aflatoxin and have their moisture content certified. The maximum acceptable total aflatoxin level is 20 parts per billion, the U.S. Food and Drug Administration action level for aflatoxin in human foods.

(5) If the recipient procures an unprocessed commodity, it must ensure that the commodity has been produced either in the target country or in another developing country within the target region.

(6) If the recipient purchases a processed commodity, it must ensure that the processing took place, and the primary ingredient has been produced, either in the target country or in another developing country within the target region. The primary ingredient is determined on the basis of weight in the case of solid foods, or volume in the case of liquids.

(7) If the recipient purchases eligible commodities through a competitive tender, the recipient must specify the minimally acceptable commodity specifications and food safety and quality assurance standards in the tender. Purchases that are made from commercial wholesalers in a local or regional market must meet the food safety and quality assurance standards specified in paragraphs (b)(2), (3) and (4) of this section.

(8) The recipient must enter into a contract that complies with this paragraph for every local or regional procurement of eligible commodities, other than through food vouchers, from a commodity vendor. The recipient must ensure that the contract between the recipient and the commodity vendor clearly specifies the country of origin and specific market(s) in which the procurement will take place, commodity safety and quality assurance standards, product specifications, price per metric ton, and delivery terms. Recipients will be required to make such

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contracts available to FAS upon request.

(9) The recipient must enter into a contract with an established inspection service to survey and report on the safety, quality, and condition of all procured commodities, other than those procured through food vouchers, prior to their shipment and distribution. The recipient will be required to submit any survey reports or certificates issued by such inspection service to FAS upon request.

(10) The recipient must enter into a contract with each vendor expected to redeem food vouchers distributed under an agreement that specifies the conditions under which the vouchers will be redeemed for food. The recipient must ensure that beneficiaries use food vouchers to purchase eligible commodities that meet the food safety and quality assurance standards specified in paragraphs (b)(2), (3) and (4) of this section.

(c) The agreement will require the recipient to submit a procurement plan for FAS's approval within the time period specified in the agreement. The procurement plan will include time periods, broken down by month, for commodity procurement, delivery, and distribution and, where applicable, the distribution of food vouchers. The agreement will require the recipient to comply with the procurement plan, as approved by FAS, and will prohibit the recipient from making any changes to the procurement plan without obtaining the prior written approval of FAS.

§ 1590.7 Payments.

(a) If the agreement authorizes the payment of FAS-provided funds, FAS will generally provide the funds to the recipient on an advance payment basis, in accordance with 2 CFR 200.305(b). In addition, the following procedures will apply to advance payments:

(1) A recipient may request advance payments of FAS-provided funds, up to the total amount specified in the agreement. When making an advance payment request, a recipient must provide, for each agreement for which it is requesting an advance, total expenditures to date; an estimate of expenses to be covered by the advance; total advances previously requested, if any; the

amount of cash on hand from the preceding advance; and, if necessary, a request to roll over any unused funds from the preceding advance to the current request period. The advance payment request must take into account any program income earned since the preceding advance.

(2) Whenever possible, the recipient should consolidate advance payment requests to cover anticipated cash needs for all food assistance program awards made by FAS to the recipient. A recipient may request advance payments with no minimum time required between requests.

(3) A recipient must minimize the amount of time that elapses between the transfer of funds by FAS and the disbursement of funds by the recipient. A recipient must fully disburse funds from the preceding advance before it submits a new advance request for the same agreement, with the exception that the recipient may request to retain the balance of any funds that have not been disbursed and roll it over into a new advance request if the new advance request is made within 90 days after the preceding advance was made.

(4) FAS will review all requests to roll over unexpended funds from the preceding advance that have not been disbursed and make a decision based on the merits of the request. FAS will consider factors such as the amount of funding that the recipient is requesting to roll over, the length of time that the recipient has been in possession of the funds, any unforeseen or extenuating circumstances, the recipient's history of performance, and findings from recent financial audits or compliance reviews.

(5) FAS will not approve any request for an advance or rollover of funds if the most recent financial report, as specified in the agreement, is past due, or if any required report, as specified in any open agreement between the recipient and FAS or the Commodity Credit Corporation (CCC), is more than three months in arrears.

(6)(i) A recipient must return to FAS any funds advanced by FAS that have not been disbursed as of the 91st day after the advance was made; provided, however, that paragraphs (a)(6)(ii) and