

Department of State

§ 228.01

PART 228—RULES ON SOURCE, ORIGIN AND NATIONALITY FOR COMMODITIES AND SERVICES FINANCED BY USAID

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AUTHORITY: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381), as amended, E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SOURCE: 61 FR 53616, Oct. 15, 1996, unless otherwise noted.

Subpart A—Definitions and Scope of This Part

§ 228.01 Definitions.

As used in this part, the following terms shall have the following meanings:

(a) *Commodity* means any material, article, supply, goods, or equipment.

(b) *Commodity-related services* means delivery services and/or incidental services.

(c) *Component* means any good that goes directly into the production of a produced commodity.

(d) *Cooperating country* means the country receiving the USAID assistance subject to this part 228.

(e) *Delivery* means the transfer to, or for the account of, an importer of the right to possession of a commodity, or, with respect to a commodity-related service, the rendering to, or for the account of, an importer of any such service.

(f) *Delivery service* means any service customarily performed in a commercial export transaction which is necessary to effect a physical transfer of commodities to the cooperating country. Examples of such services are the following: export packing, local drayage in the source country (including waiting time at the dock), ocean and other freight, loading, heavy lift, wharfage, tollage, switching, dumping and trimming, lighterage, insurance, commodity inspection services, and services of a freight forwarder. "Delivery services" may also include work and materials necessary to meet USAID marking requirements.

(g) *Implementing document* means any document, such as a contract, grant,

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letter of commitment, etc., issued by USAID which authorizes the use of USAID funds for the procurement of services or commodities and/or commodity related services, and which specifies conditions which apply to such procurement.

(h) *Incidental services* means the installation or erection of USAID-financed equipment, or the training of personnel in the maintenance, operation and use of such equipment.

(i) *Mission* means the USAID Mission or representative in a cooperating country.

(j) *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.

(k) *Services* means the performance of identifiable tasks, rather than the delivery of an end item of supply.

(l) *Source* means the country from which a commodity is shipped to the cooperating country, or the cooperating country if the commodity is located therein at the time of the purchase. 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.

(m) *State* means the District of Columbia or any State, commonwealth, territory or possession of the United States.

(n) *Supplier* means any person or organization, governmental or otherwise, who furnishes services, commodities and/or commodity related services financed by USAID.

(o) *United States* means the United States of America, any State(s) of the United States, the District of Columbia, and areas of U.S. associated sovereignty, including commonwealths, territories and possessions.

(p) *USAID* means the U.S. Agency for International Development or any successor agency, including when applicable, each USAID Mission abroad.

(q) *USAID Geographic Code* means a code in the USAID Geographic Code Book which designates a country, a group of countries, or an otherwise defined area. The principal USAID geographic codes are described in § 228.03.

(r) *USAID/W* means the USAID in Washington, DC 20523, including any office thereof.

§ 228.02 Scope and application.

This part is applicable to goods and services financed directly with program funds under the Foreign Assistance Act of 1961, as amended, unless otherwise provided by statute or regulation. If different conditions apply to a USAID-financed procurement, by statute or regulation, those conditions shall be incorporated in the implementing document and shall prevail in the event of any conflict with this part 228. The implementing documents will indicate the authorized source of procurement. The terms and conditions applicable to a procurement of goods or services shall be those in effect on the date of the issuance of a contract for goods or services by USAID or by the cooperating country.

§ 228.03 Identification of principal geographic code numbers.

The USAID Geographic Code Book sets forth the official description of all geographic codes used by USAID in authorizing or implementing documents, to designate authorized source countries or areas. The following are summaries of the principal codes:

(a) Code 000—*The United States*: The United States of America, any State(s) of the United States, the District of Columbia, and areas of U.S.-associated sovereignty, including commonwealths, territories and possessions.

(b) Code 899—Any area or country, except the cooperating country itself and the following foreign policy restricted countries: Afghanistan, Libya, Vietnam, Cuba, Cambodia, Laos, Iraq, Iran, North Korea, Syria and People’s Republic of China.

(c) Code 935—Any area or country including the cooperating country, but excluding the foreign policy restricted countries.

(d) Code 941—The United States and any independent country (excluding