

# Implementation Tips for USAID Partners

Sharing Resources and Knowledge Among the Global CSO Community

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## Definitions

**Commodities or goods**—Any material, article, supply, good or equipment.

**Source**—The country from which a commodity is shipped (or the cooperating country itself if the commodity is located therein at the time of the purchase).

**Origin**—The country where a commodity is mined, grown or produced.

**Nationality**—For purposes of USAID's procurement rules, nationality refers to the place of incorporation, ownership, citizenship or residence of suppliers of goods and services.

## System for Award Management

**(SAM)**—A searchable database that provides a comprehensive list of individuals, firms and organizations that are not eligible to receive USG funds. Grant recipients are responsible for using this online database to check vendors prior to contracting for services or making any purchases.

## Procurement: Source and Vendor Restrictions, Geographic Codes and Waivers

**Q.** What restrictions apply to where (source) and from whom (vendors) an organization can buy goods and services using U.S. Government funds?

**A.** In general, U.S. Government (USG) funding comes with many conditions regarding how it may and may not be spent.

These include limitations on:

- *What* particular goods and services are allowable.
- *Where* the item was made (origin) and purchased (source).
- *From whom* you can purchase goods and services (vendor).

This issue covers where and from whom an organization may buy commodities and services.

## General Source Restrictions

Organizations receiving USG funding and working within and outside the United States are subject to the Buy American Act and the Foreign Assistance Act, which give priority to U.S.-manufactured goods and services. These Acts primarily affect procurements made by a headquarters office located in the U.S. that is purchasing goods to be used domestically.

The principal Regulation that governs purchases made overseas is 22 CFR 228, Rules for Procurement of Commodities and Services Financed by USAID. The regulation can be found on the following [website](#) and the relevant agency policy is accessible in the [Automated Directive System ADS chapters 310–314](#).

## The Procurement Puzzle

Refer to the Standard Provisions of your USAID Cooperative Agreement for applicable restrictions. The answers to the four questions below will help determine whether you can or cannot spend USG funds on a particular procurement.

## References

### [Buy American Act](#)

### [ADS Chapter 310](#)

Source and Nationality Requirements for Procurement of Commodities and Services Financed by USAID

### [List of Developing Countries](#)

A Mandatory Reference for ADS 310

### [List of Advanced Developing Countries](#)

Additional Help for ADS 308.

### [List of Prohibited Source Countries](#)

Mandatory Reference for ADS 310.

### [System for Award Management \(SAM\)](#)

### [Specially Designated Nationals and Blocked Persons List](#)

### [United Nations Security Designation List](#)

U.S. Office of Foreign Assets Control (OFAC) [list of sanctioned countries](#)

## Motor Vehicle Example

To purchase any type of “motor vehicle” (truck, car, bus, motorcycle, utility vehicle or motorized bicycle), you need the following written documentation from your Agreement Officer:

- Prior approval to purchase the motor vehicle, because it is a “restricted” good.
- A source and origin waiver prior to purchasing the motor vehicle if it is non-U.S. source and origin, because it is a “special source” good.

## The Procurement Puzzle



## Geographic Codes

USAID grantees are assigned a “geographic code” in their Cooperative Agreement that designates specific countries from which they are authorized to purchase goods and services. There are three main geographic codes typically used: 937, 935 and 110.

### Code 937

Geographic code 937 authorizes grantees to purchase goods and services from the United States, the recipient country or other developing countries, but excludes advanced developing countries and prohibited source countries. Code 937 is typically assigned if the procurement element in the award is greater than \$250,000.

### Code 935

Geographic code 935 authorizes grantees to purchase goods and services from any country except prohibited source countries. Code 935 is typically assigned if the procurement element in the award is less than \$250,000, if a waiver has been authorized or the award is funded from Development Assistance or similar program funds.

### Code 110

Geographic code 110 authorizes grantees to purchase goods and services from the United States, the independent states of the former Soviet Union or developing countries, excluding prohibited source countries.

## Procurements under \$25,000

Waivers are not required for procurements of individual transactions that total less than \$25,000 (excluding procurements of restricted goods and from prohibited sources).

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### **Rules and Waivers for Restricted Commodities**

If your Geographic Code is 937, 935 or 110, you may purchase the goods and services in your approved budget with three exceptions. The following must be produced or manufactured in the U.S.:

- Agriculture commodities,
- Motor vehicles,
- Pharmaceuticals.

Within a limited scope, it is possible to request a waiver from your Agreement Officer (AO) to purchase these commodities if manufactured or grown outside of the U.S. However, you will need to provide a reason that is consistent with USAID policy for selecting a non-U.S. product.

Your AO might consider granting a waiver if a U.S.- manufactured product is not available on the local market, while an equivalent non-U.S. product is; to meet unforeseen circumstances or to promote efficiency in the use of U.S. foreign assistance. (Perhaps the additional shipping costs would dramatically increase the cost to purchase U.S.- manufactured products.) Prior to purchasing any of the above named commodities from other than a U.S. source, be prepared to document the reasons before contacting your AO.

In some circumstances, your AO may still require you to purchase U.S.-manufactured items despite any additional costs. This may be the case with certain pharmaceuticals, especially when there is a concern about the quality or safety of specific pharmaceuticals manufactured outside of the U.S.

### **Subawards and Geographic Codes and Local Procurement**

The implementation of the source and nationality procurement regulations flow down to subawards; and, depending on if the organization is a U.S. or Non-U.S. organization, the relevant mandatory provisions will be applicable.

### **Vendor Restrictions**

In addition to source, origin and nationality, another set of procurement regulations restricts from whom you can purchase goods or services.

No procurement is allowed from any individual or entity that has an active exclusion on the System for Award Management (SAM). SAM contains a searchable list of those individuals and entities that the U.S. Government has suspended or debarred based on misconduct or otherwise determined cannot be trusted to safeguard USG funds.

## For More Information

For this or other issues of *Implementation Tips*, please visit [www.NGOConnect.net](http://www.NGOConnect.net). The Web site is a dynamic and interactive portal dedicated to connecting and strengthening CSOs, networks and CSO support organizations worldwide.

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Grantees must also not engage in transactions with, or provide resources or support to, individuals and organizations associated with terrorism including those individuals or entities that appear on either the Specially Designated Nationals and Blocked Persons List maintained by the U.S. Treasury or the United Nations Security designation list.

Grantees must also ensure that they do not engage in transactions with parties subject to U.S. sanctions, which can include individuals, organizations or companies or countries. The U.S. Office of Foreign Assets Control (OFAC) maintains a searchable database of sanctioned programs.

### Consequences of Misuse of USG Funds

The USG reserves the right to require you to refund any amount that is not spent in accordance with the terms and conditions of the award (that is, costs not allowable under the regulations). Be sure to keep your records for at least three years after submitting your final report, in case of an audit.

