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

DATE: October 1, 2020

SUBJECT: Procedure to Determine Compliance with the Conditions of the Bellmon Amendment for Title II Awards

I. Purpose

Bureau for Humanitarian Assistance (BHA) Functional Policy (BHAFP) 20-02 supersedes Food for Peace Information Bulletin (FFPIB) 19-02,¹ which is hereby rescinded in its entirety, and provides guidance on BHA's process to make a Bellmon Determination, a requirement for all BHA Title II awards. The Bellmon Determination is a formal declaration internal to BHA that a proposed Title II food security activity² is compliant, or not, with the Bellmon requirement. A Bellmon Determination is required for **ALL** Title II awards, but is not applicable to International Disaster Assistance (IDA) or Community Development Fund (CDF) awards.

A Bellmon Determination is required for any Title II activity that includes distribution of agricultural commodities, food procured outside of the United States, food vouchers, or cash transfers for food. Market assessments provide critical information which enables BHA to make a Bellmon Determination. They also assist partners to design food and nutrition security activities that are appropriate, feasible, and cost-efficient.

Separate from the formal Bellmon Determination, BHA requires market analyses, consistent with current practice, for all Title II interventions. As explained in Section C of this BHAFP, implementing partners are also required to provide appropriate information related to the local, national, and regional markets when proposing Title II interventions, to ensure local markets are not negatively affected by the proposed activities.

II. Analysis and Award Process

A. Independent Market Analysis

Based on consultation with the Mission or other delegated U.S. Government officials, BHA/Washington (BHA/W) will conduct or commission an independent entity to conduct a market analysis to inform a Request for Applications (RFA) for a new BHA Title II Resilience Food Security

¹ FFPIB 19-02 is in effect until October 1, 2020.

² Per ADS 201, an activity encompasses all programmatic interventions under an award. Interventions describe actions and implementation details.

Activity (RFSA).³ The report will be country-context specific, and can include the following types of basic information, as appropriate:

1. overview of agricultural production and market systems;
2. in-depth analysis of markets for key food security crops;
3. policy issues relevant to agriculture, markets, and trade; and
4. logistics and storage profile.

This report, as well as any supporting data and other documents, will be made available to the implementing partners through the USAID website, as appropriate. The report will also be used as BHA/W drafts the RFA in conjunction with Mission input.

For emergency activities, BHA/W will rely heavily on its implementing partners and other publically-available market analyses for this information.

B. Implementing Partner's Application

For any proposed Title II activity, application submissions should contain essential market analysis information that is informed by the independent market analysis, if available, as well as the implementing partner's own analyses. Partners should reference the most recent and relevant guidance associated with the type of programming and funding opportunity for the proposed Title II activity, such as the Title II RFSA RFA and BHA emergency application guidelines.

III. Bellmon Determination

This section provides guidance on the Bellmon Determination, including when it is legally required, who is responsible, and what it entails.

A. Authorizing Legislation

Regardless of modality, Section 403(a) of the Food for Peace Act (7 U.S.C. § 1733(a)) requires that the U.S. Government make a positive Bellmon Determination prior to awarding Title II resources. A positive Bellmon Determination indicates that the following conditions have been satisfied:

- a. No agricultural commodity, food procured outside of the United States, food voucher, or cash transfer for food shall be made available under this chapter unless it is determined that-
 - (1) in the case of the provision of an agricultural commodity, adequate storage facilities will be available in the recipient country at the time of the arrival of the commodity to prevent the spoilage or waste of the commodity; and
 - (2) the distribution of the agricultural commodity or use of the food procured outside of the United States, food voucher, or cash transfer for food in the recipient country will not result in a substantial disincentive to or interference with domestic production or marketing in that country.

³ These were formerly referred to as Development Food Security Activities (DFSAs).

In addition to the Bellmon Determination, USAID is required by Section 403(b) of the Food for Peace Act to ensure that the importation of U.S. agricultural commodities, the use of food procured outside of the United States, food vouchers, and cash transfers for food, and the use of local currencies for RFSAs purposes will not have a disruptive impact on the farmers or the local economy of the recipient country.

B. Bellmon Determination

BHA/W, in concurrence with the relevant USAID Mission or the delegated U.S. Government official, is responsible for the Bellmon Determination as part of its approval of a Title II-funded application before a final award is issued. For each Title II-funded award application under review, the relevant U.S. Government staff in the field and Washington will assess information available from all sources to reach consensus on the Bellmon Determination. This may include, among other things, consultation with market and development experts, internal BHA market analyses, secondary market reports, and/or a specially-commissioned Bellmon Analysis.

Comments from the USAID Mission must specifically include a statement that the USAID Mission or the delegated U.S. Government official (such as the U.S. Diplomatic Post, if there is no USAID Mission) has determined that the proposed activity is in compliance with the Bellmon requirements or, alternatively, a statement that the USAID Mission is unable to make that determination and why.

C. Expectations for Implementing Partners

The Bellmon Determination process complements—but does not replace—the need for an implementing partner’s own initial and ongoing market analyses and surveillance to inform its understanding of the operational context. To implement sound interventions, implementing partners must continue to stay abreast of the conditions of the markets in which they are operating. To be responsible stewards of BHA Title II resources, awardees also need to maintain a detailed knowledge of relevant markets. Implementing partners will continue to be required to provide considerable information in RFSAs activity applications related to the markets that could be affected by proposed Title II interventions.

IV. Market Analysis and Bellmon Updates

BHA/W understands that market updates will be required when there is a compelling reason to question the validity of the findings of the prevailing analysis and/or Bellmon Determination. When an awardee, the USAID Mission, or BHA/W deems an update necessary, the awardee, USAID Mission, or BHA/W should convey those concerns in a written request with a justification and suggested timeline to the Agreement Officer through the Agreement Officer’s Representative for activities in that country. This request should include:

1. the date of the last known market analysis and/or Bellmon Determination;
2. a copy of the last market analysis used to inform an understanding of compliance with the Bellmon Amendment (where applicable);
3. a description of the performance of the BHA award, indicating any potential issues; and

4. an explanation of what calls into question the validity of the current market analysis and/or Bellmon Determination, including specific references to changed market and programmatic conditions and/or issues related to the previous analysis.

All requests for updates will be reviewed and evaluated by BHA/W. BHA/W will then inform those requesting updates of its decision regarding the request. Updates may be conducted in any countries deemed essential.

V. Deviations

Consistent with the statutory authorities and requirements of Title II of the Food for Peace Act, the BHA Assistant to the Administrator reserves the right to deviate from the procedures specified in this BHAFP under extraordinary circumstances.