

or local government to elect to receive an in-lieu contribution in an amount equal to 90 percent of the Federal share of the Federal estimate of the cost of repair, restoration, reconstruction, or replacement of a public facility owned or controlled by the State or local government and of management expenses.

(ii) Making grants on the basis of estimates agreed to by the local government (or where no local government is involved, by the State government) and the Administrator to provide financial incentives and disincentives for the local government (or where no local government is involved, for the State government) for the timely or cost effective completion of projects under sections 5170b(a)(3)(A), 5172, and 5173 of title 42.

(iii) Increasing the Federal share for removal of debris and wreckage for States and local governments that have a debris management plan approved by the Administrator and have pre-qualified 1 or more debris and wreckage removal contractors before the date of declaration of the major disaster.

(iv) Using a sliding scale for the Federal share for removal of debris and wreckage based on the time it takes to complete debris and wreckage removal.

(v) Using a financial incentive to recycle debris.

(vi) Reimbursing base wages for employees and extra hires of a State or local government involved in or administering debris and wreckage removal.

#### **(4) Waiver**

The Administrator may waive such regulations or rules applicable to the provisions of assistance under the sections referred to in paragraph (1) as the Administrator determines are necessary to carry out the pilot program under this section.

#### **(b) Report**

##### **(1) In general**

Not later than March 31, 2009, the Administrator shall submit to the appropriate committees of Congress a report regarding the effectiveness of the pilot program under this section.

##### **(2) Contents**

The report submitted under paragraph (1) shall include—

(A) an assessment by the Administrator of any administrative or financial benefits of the pilot program;

(B) an assessment by the Administrator of the effect, including any savings in time and cost, of the pilot program;

(C) any identified legal or other obstacles to increasing the amount of debris recycled after a major disaster;

(D) any other findings and conclusions of the Administrator with respect to the pilot program; and

(E) any recommendations of the Administrator for additional authority to continue or make permanent the pilot program.

#### **(c) Deadline for initiation of implementation**

The Administrator shall initiate implementation of the pilot program under this section not later than 90 days after October 4, 2006.

#### **(d) Pilot program project duration**

The Administrator may not approve a project under the pilot program under this section after December 31, 2008.

(Pub. L. 109-295, title VI, § 689j, Oct. 4, 2006, 120 Stat. 1455.)

### PART D—PREVENTION OF FRAUD, WASTE, AND ABUSE

#### **§ 791. Advance contracting**

##### **(a) Initial report**

###### **(1) In general**

Not later than 180 days after October 4, 2006, the Administrator shall submit a report under paragraph (2) identifying—

(A) recurring disaster response requirements, including specific goods and services, for which the Agency is capable of contracting for in advance of a natural disaster or act of terrorism or other man-made disaster in a cost effective manner;

(B) recurring disaster response requirements, including specific goods and services, for which the Agency can not contract in advance of a natural disaster or act of terrorism or other man-made disaster in a cost effective manner; and

(C) a contracting strategy that maximizes the use of advance contracts to the extent practical and cost-effective.

###### **(2) Submission**

The report under paragraph (1) shall be submitted to the appropriate committees of Congress.

##### **(b) Entering into contracts**

###### **(1) In general**

Not later than 1 year after October 4, 2006, the Administrator shall enter into 1 or more contracts for each type of goods or services identified under subsection (a)(1)(A), and in accordance with the contracting strategy identified in subsection (a)(1)(C). Any contract for goods or services identified in subsection (a)(1)(A) previously awarded may be maintained in fulfilling this requirement.

###### **(2) Considered factors**

Before entering into any contract under this subsection, the Administrator shall consider section 5150 of title 42.

###### **(3) Prenegotiated Federal contracts for goods and services**

The Administrator, in coordination with State and local governments and other Federal agencies, shall establish a process to ensure that Federal prenegotiated contracts for goods and services are coordinated with State and local governments, as appropriate.

###### **(4) Prenegotiated State and local contracts for goods and services**

The Administrator shall encourage State and local governments to establish

renegotiated contracts with vendors for goods and services in advance of natural disasters and acts of terrorism or other man-made disasters.

**(c) Maintenance of contracts**

After the date described under subsection (b), the Administrator shall have the responsibility to maintain contracts for appropriate levels of goods and services in accordance with subsection (a)(1)(C).

**(d) Report on contracts not using competitive procedures**

At the end of each fiscal quarter, beginning with the first fiscal quarter occurring at least 90 days after October 4, 2006, the Administrator shall submit a report on each disaster assistance contract entered into by the Agency by other than competitive procedures to the appropriate committees of Congress.

(Pub. L. 109–295, title VI, § 691, Oct. 4, 2006, 120 Stat. 1457.)

**§ 792. Limitations on tiering of subcontractors**

**(a) Regulations**

The Secretary shall promulgate regulations applicable to contracts described in subsection (c) to minimize the excessive use by contractors of subcontractors or tiers of subcontractors to perform the principal work of the contract.

**(b) Specific requirement**

At a minimum, the regulations promulgated under subsection (a) shall preclude a contractor from using subcontracts for more than 65 percent of the cost of the contract or the cost of any individual task or delivery order (not including overhead and profit), unless the Secretary determines that such requirement is not feasible or practicable.

**(c) Covered contracts**

This section applies to any cost-reimbursement type contract or task or delivery order in an amount greater than the simplified acquisition threshold (as defined by section 134 of title 41) entered into by the Department to facilitate response to or recovery from a natural disaster or act of terrorism or other man-made disaster.

(Pub. L. 109–295, title VI, § 692, Oct. 4, 2006, 120 Stat. 1458.)

CODIFICATION

In subsec. (c), “section 134 of title 41” substituted for “section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)” on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

**§ 793. Oversight and accountability of Federal disaster expenditures**

**(a) Authority of Administrator to designate funds for oversight activities**

The Administrator may designate up to 1 percent of the total amount provided to a Federal agency for a mission assignment as oversight funds to be used by the recipient agency for performing oversight of activities carried out under the Agency reimbursable mission assignment process. Such funds shall remain available until expended.

**(b) Use of funds**

**(1) Types of oversight activities**

Oversight funds may be used for the following types of oversight activities related to Agency mission assignments:

(A) Monitoring, tracking, and auditing expenditures of funds.

(B) Ensuring that sufficient management and internal control mechanisms are available so that Agency funds are spent appropriately and in accordance with all applicable laws and regulations.

(C) Reviewing selected contracts and other activities.

(D) Investigating allegations of fraud involving Agency funds.

(E) Conducting and participating in fraud prevention activities with other Federal, State, and local government personnel and contractors.

**(2) Plans and reports**

Oversight funds may be used to issue the plans required under subsection (e) and the reports required under subsection (f).

**(c) Restriction on use of funds**

Oversight funds may not be used to finance existing agency oversight responsibilities related to direct agency appropriations used for disaster response, relief, and recovery activities.

**(d) Methods of oversight activities**

**(1) In general**

Oversight activities may be carried out by an agency under this section either directly or by contract. Such activities may include evaluations and financial and performance audits.

**(2) Coordination of oversight activities**

To the extent practicable, evaluations and audits under this section shall be performed by the inspector general of the agency.

**(e) Development of oversight plans**

**(1) In general**

If an agency receives oversight funds for a fiscal year, the head of the agency shall prepare a plan describing the oversight activities for disaster response, relief, and recovery anticipated to be undertaken during the subsequent fiscal year.

**(2) Selection of oversight activities**

In preparing the plan, the head of the agency shall select oversight activities based upon a risk assessment of those areas that present the greatest risk of fraud, waste, and abuse.

**(3) Schedule**

The plan shall include a schedule for conducting oversight activities, including anticipated dates of completion.

**(f) Federal disaster assistance accountability reports**

A Federal agency receiving oversight funds under this section shall submit annually to the Administrator and the appropriate committees of Congress a consolidated report regarding the use of such funds, including information summarizing oversight activities and the results achieved.

**(g) Definition**

In this section, the term “oversight funds” means funds referred to in subsection (a) that are designated for use in performing oversight activities.

(Pub. L. 109–295, title VI, § 693, Oct. 4, 2006, 120 Stat. 1458.)

**§ 794. Limitation on length of certain non-competitive contracts****(a) Regulations**

The Secretary shall promulgate regulations applicable to contracts described in subsection (c) to restrict the contract period of any such contract entered into using procedures other than competitive procedures pursuant to the exception provided in paragraph (2) of section 3304(a) of title 41 to the minimum contract period necessary—

(1) to meet the urgent and compelling requirements of the work to be performed under the contract; and

(2) to enter into another contract for the required goods or services through the use of competitive procedures.

**(b) Specific contract period**

The regulations promulgated under subsection (a) shall require the contract period to not to exceed<sup>1</sup> 150 days, unless the Secretary determines that exceptional circumstances apply.

**(c) Covered contracts**

This section applies to any contract in an amount greater than the simplified acquisition threshold (as defined by section 134 of title 41) entered into by the Department to facilitate response to or recovery from a natural disaster, act of terrorism, or other man-made disaster.

(Pub. L. 109–295, title VI, § 695, Oct. 4, 2006, 120 Stat. 1460.)

## CODIFICATION

In subsec. (a), “paragraph (2) of section 3304(a) of title 41” substituted for “paragraph (2) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c))” on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (c), “section 134 of title 41” substituted for “section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)” on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

**§ 795. Fraud, waste, and abuse controls****(a) In general**

The Administrator shall ensure that—

(1) all programs within the Agency administering Federal disaster relief assistance develop and maintain proper internal management controls to prevent and detect fraud, waste, and abuse;

(2) application databases used by the Agency to collect information on eligible recipients must record disbursements;

(3) such tracking is designed to highlight and identify ineligible applications; and

(4) the databases used to collect information from applications for such assistance must be integrated with disbursements and payment records.

**(b) Audits and reviews required**

The Administrator shall ensure that any database or similar application processing system for Federal disaster relief assistance programs administered by the Agency undergoes a review by the Inspector General of the Agency to determine the existence and implementation of such internal controls required under this section and the amendments made by this section.

(Pub. L. 109–295, title VI, § 696, Oct. 4, 2006, 120 Stat. 1460.)

## REFERENCES IN TEXT

For the amendments made by this section, referred to in subsec. (b), see Codification note below.

## CODIFICATION

Section is comprised of section 696 of Pub. L. 109–295. Subsec. (c) of section 696 of Pub. L. 109–295 amended section 5174 of Title 42, The Public Health and Welfare.

**§ 796. Registry of disaster response contractors****(a) Definitions**

In this section—

(1) the term “registry” means the registry created under subsection (b); and

(2) the terms “small business concern”, “small business concern owned and controlled by socially and economically disadvantaged individuals”, “small business concern owned and controlled by women”, and “small business concern owned and controlled by service-disabled veterans” have the meanings given those terms under the Small Business Act (15 U.S.C. 631 et seq.).

**(b) Registry****(1) In general**

The Administrator shall establish and maintain a registry of contractors who are willing to perform debris removal, distribution of supplies, reconstruction, and other disaster or emergency relief activities.

**(2) Contents**

The registry shall include, for each business concern—

(A) the name of the business concern;

(B) the location of the business concern;

(C) the area served by the business concern;

(D) the type of good or service provided by the business concern;

(E) the bonding level of the business concern; and

(F) whether the business concern is—

(i) a small business concern;

(ii) a small business concern owned and controlled by socially and economically disadvantaged individuals;

(iii) a small business concern owned and controlled by women; or

(iv) a small business concern owned and controlled by service-disabled veterans.

**(3) Source of information****(A) Submission**

Information maintained in the registry shall be submitted on a voluntary basis and

<sup>1</sup> So in original. Probably should be “period not to exceed”.

be kept current by the submitting business concerns.

**(B) Attestation**

Each business concern submitting information to the registry shall submit—

- (i) an attestation that the information is true; and
- (ii) documentation supporting such attestation.

**(C) Verification**

The Administrator shall verify that the documentation submitted by each business concern supports the information submitted by that business concern.

**(4) Availability of registry**

The registry shall be made generally available on the Internet site of the Agency.

**(5) Consultation of registry**

As part of the acquisition planning for contracting for debris removal, distribution of supplies in a disaster, reconstruction, and other disaster or emergency relief activities, a Federal agency shall consult the registry.

(Pub. L. 109-295, title VI, §697, Oct. 4, 2006, 120 Stat. 1461.)

REFERENCES IN TEXT

The Small Business Act, referred to in subsec. (a)(2), is Pub. L. 85-536, §2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

**§ 797. Fraud prevention training program**

The Administrator shall develop and implement a program to provide training on the prevention of waste, fraud, and abuse of Federal disaster relief assistance relating to the response to or recovery from natural disasters and acts of terrorism or other man-made disasters and ways to identify such potential waste, fraud, and abuse.

(Pub. L. 109-295, title VI, §698, Oct. 4, 2006, 120 Stat. 1462.)

PART E—AUTHORIZATION OF APPROPRIATIONS

**§ 811. Authorization of appropriations**

There are authorized to be appropriated to carry out this title<sup>1</sup> and the amendments made by this title for the administration and operations of the Agency—

- (1) for fiscal year 2008, an amount equal to the amount appropriated for fiscal year 2007 for administration and operations of the Agency, multiplied by 1.1;
- (2) for fiscal year 2009, an amount equal to the amount described in paragraph (1), multiplied by 1.1; and
- (3) for fiscal year 2010, an amount equal to the amount described in paragraph (2), multiplied by 1.1.

(Pub. L. 109-295, title VI, §699, Oct. 4, 2006, 120 Stat. 1462.)

<sup>1</sup> See References in Text note below.

REFERENCES IN TEXT

This title, referred to in text, is title VI of Pub. L. 109-295, Oct. 4, 2006, 120 Stat. 1355, known as the Post-Katrina Emergency Management Reform Act of 2006. For complete classification of title VI to the Code, see Short Title note set out under section 701 of this title and Tables.

**CHAPTER 3—SECURITY AND ACCOUNTABILITY FOR EVERY PORT**

Sec.

901. Definitions.

SUBCHAPTER I—SECURITY OF UNITED STATES SEAPORTS

PART A—PORT SECURITY GRANTS; TRAINING AND EXERCISE PROGRAMS

- 911. Repealed.
- 912. Port Security Exercise Program.
- 913. Facility exercise requirements.

PART B—PORT OPERATIONS

- 921. Domestic radiation detection and imaging.
- 921a. Integration of detection equipment and technologies.
- 922. Inspection of car ferries entering from abroad.
- 923. Random searches of containers.
- 924. Threat assessment screening of port truck drivers.
- 925. Border Patrol unit for United States Virgin Islands.
- 926. Center of Excellence for Maritime Domain Awareness.

SUBCHAPTER II—SECURITY OF THE INTERNATIONAL SUPPLY CHAIN

PART A—GENERAL PROVISIONS

- 941. Strategic plan to enhance the security of the international supply chain.
- 942. Post-incident resumption of trade.
- 943. Automated Targeting System.
- 944. Container security standards and procedures.
- 945. Container Security Initiative.

PART B—CUSTOMS—TRADE PARTNERSHIP AGAINST TERRORISM

- 961. Establishment.
- 962. Eligible entities.
- 963. Minimum requirements.
- 964. Tier 1 participants in C-TPAT.
- 965. Tier 2 participants in C-TPAT.
- 966. Tier 3 participants in C-TPAT.
- 967. Consequences for lack of compliance.
- 968. Third party validations.
- 969. Revalidation.
- 970. Noncontainerized cargo.
- 971. C-TPAT program management.
- 972. Additional personnel.
- 973. Authorization of appropriations.

PART C—MISCELLANEOUS PROVISIONS

- 981. Pilot integrated scanning system.
- 981a. Pilot integrated scanning system.
- 982. Screening and scanning of cargo containers.
- 983. Inspection technology and training.
- 984. Pilot program to improve the security of empty containers.
- 985. Information sharing relating to supply chain security cooperation.

SUBCHAPTER III—ADMINISTRATION

- 1001. Designation of liaison office of Department of State.
- 1002. Homeland Security Science and Technology Advisory Committee.