

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

prenegotiated 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.

**(e) Updated report**

Not later than 180 days after December 31, 2020, the Administrator shall submit to the appropriate committees of Congress an updated report that contains—

- (1) the information required in the initial report under subparagraphs (A) and (B) of subsection (a)(1); and
- (2) an updated strategy described in subsection (a)(1)(C) that clearly defines—
  - (A) the objectives of advance contracts;
  - (B) how advance contracts contribute to disaster response operations of the Agency;
  - (C) how to maximize the award of advance contracts to small business concerns, as defined in section 632 of title 15; and
  - (D) whether and how advance contracts should be prioritized in relation to new post-disaster contract awards.

**(f) Additional Duties of the Administrator**

**(1) Head of contracting**

The Administrator shall ensure that the head of contracting activity of the Agency—

- (A) not later than 270 days after December 31, 2020, updates the Disaster Contracting Desk Guide of the Agency to provide specific guidance—
  - (i) on whether and under what circumstances contracting officers should consider using existing advance contracts entered into in accordance with this section prior to making new post-disaster contract awards, and include this guidance in existing semi-annual training given to contracting officers; and
  - (ii) for contracting officers to perform outreach to State and local governments on the potential benefits of establishing their own pre-negotiated advance contracts;
- (B) adheres to hard copy contract file management requirements in effect to ensure that the files relating to advance contracts entered into in accordance with this section are complete and up to date, whether the files will be transferred into the Electronic Contract Filing System of the Agency or remain in hard copy format;
- (C) notifies contracting officers of the 3-day time frame requirement for entering

completed award documentation into the contract writing system of the Agency when executing notice to proceed documentation;

(D) not later than 180 days after December 31, 2020, revises the reporting methodology of the Agency to ensure that all disaster contracts are included in each quarterly report submitted to the appropriate congressional committees under this section on disaster contract actions;

(E) identifies a single centralized resource listing advance contracts entered into under this section and ensures that source is current and up to date and includes all available advance contracts; and

(F) communicates complete and up-to-date information on available advance contracts to State and local governments to inform their advance contracting efforts.

**(2) Master acquisition planning schedule**

Not later than 180 days after December 31, 2020, the Administrator shall update and implement guidance for program office and acquisition personnel of the Agency to—

- (A) identify acquisition planning time frames and considerations across the entire acquisition planning process of the Agency; and
- (B) clearly communicate the purpose and use of a master acquisition planning schedule.

(Pub. L. 109-295, title VI, §691, Oct. 4, 2006, 120 Stat. 1457; Pub. L. 116-272, §3(a), Dec. 31, 2020, 134 Stat. 3349.)

**Editorial Notes**

**AMENDMENTS**

2020—Subsecs. (e), (f). Pub. L. 116-272 added subsecs. (e) and (f).

**Statutory Notes and Related Subsidiaries**

**FINDINGS**

Pub. L. 116-272, §2, Dec. 31, 2020, 134 Stat. 3349, provided that:

“Congress finds that—

“(1) the Post-Katrina Emergency Management and Reform Act of 2006 [Post-Katrina Emergency Management Reform Act of 2006] (Public Law 109-925 [Pub. L. 109-295, title VI]; 120 Stat. 1394) required the Federal Emergency Management Agency to establish advance contracts, which are established prior to disasters and are typically needed to quickly provide life-sustaining goods and services in the immediate aftermath of a disaster;

“(2) the catastrophic hurricanes and wildfires in the United States in 2017 highlighted the importance of these advance contracts in disaster response;

“(3) in a report issued by the Government Accountability Office entitled ‘2017 Disaster Contracting: Action Needed to Better Ensure More Effective Use and Management of Advance Contracts’, the Government Accountability Office identified a number of challenges with advance contracts and recommended actions to improve management by the Federal Emergency Management Agency of these contracts for future disasters; and

“(4) section 691 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 791) should be amended to incorporate the recommendations made by the report described in paragraph (3) to ensure more effective use and management of advance contracts.”

## REPORT

Pub. L. 116-272, §3(b), Dec. 31, 2020, 134 Stat. 3351, provided that: “The Administrator of the Federal Emergency Management Agency shall regularly update the appropriate committees of Congress (as defined in section 602 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 701)) on the progress of the Federal Emergency Management Agency in implementing the recommendations of the Government Accountability Office in the report entitled ‘2017 Disaster Contracting: Action Needed to Better Ensure More Effective Use and Management of Advance Contracts’, as required under section 691 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 791), as amended by subsection (a).”

**§ 792. Repealed. Pub. L. 117-253, § 1, Dec. 20, 2022, 136 Stat. 2360**

Section, Pub. L. 109-295, title VI, §692, Oct. 4, 2006, 120 Stat. 1458, related to limitations on tiering of sub-contractors.

**§ 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

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

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.)

#### Editorial Notes

##### 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.)

#### Editorial Notes

##### 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 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.)

#### Editorial Notes

##### 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.)

#### **Editorial Notes**

##### **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.

### **PART F—GLOBAL CATASTROPHIC RISK MANAGEMENT**

#### **Editorial Notes**

##### **CODIFICATION**

Part was enacted as part of the Global Catastrophic Risk Management Act of 2022 and also as part of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, and not part of the Post-Katrina Emergency Management Reform Act of 2006 which comprises this chapter.

#### **§ 821. Definitions**

In this part:

##### **(1) Administrator**

The term “Administrator” means the Administrator of the Federal Emergency Management Agency.

##### **(2) Basic need**

The term “basic need”—

(A) means any good, service, or activity necessary to protect the health, safety, and general welfare of the civilian population of the United States; and

(B) includes—

(i) food;

(ii) water;

(iii) shelter;

(iv) basic communication services;

(v) basic sanitation and health services; and

(vi) public safety.

##### **(3) Catastrophic incident**

The term “catastrophic incident”—

(A) means any natural or man-made disaster that results in extraordinary levels of casualties or damage, mass evacuations, or disruption severely affecting the population, infrastructure, environment, economy, national morale, or government functions in an area; and

(B) may include an incident—

(i) with a sustained national impact over a prolonged period of time;

(ii) that may rapidly exceed resources available to State and local government and private sector authorities in the impacted area; or

(iii) that may significantly interrupt governmental operations and emergency services to such an extent that national security could be threatened.

##### **(4) Critical infrastructure**

The term “critical infrastructure” has the meaning given such term in section 5195c(e) of title 42.

##### **(5) Existential risk**

The term “existential risk” means the potential for an outcome that would result in human extinction.

##### **(6) Global catastrophic risk**

The term “global catastrophic risk” means the risk of events or incidents consequential enough to significantly harm or set back human civilization at the global scale.

##### **(7) Global catastrophic and existential threats**

The term “global catastrophic and existential threats” means threats that with varying likelihood may produce consequences severe enough to result in systemic failure or destruction of critical infrastructure or significant harm to human civilization. Examples of global catastrophic and existential threats include severe global pandemics, nuclear war, asteroid and comet impacts, supervolcanoes, sudden and severe changes to the climate, and intentional or accidental threats arising from the use and development of emerging technologies.

##### **(8) Indian Tribal government**

The term “Indian Tribal government” has the meaning given the term “Indian tribal government” in section 5122 of title 42.

##### **(9) Local government; State**

The terms “local government” and “State” have the meanings given such terms in section 5122 of title 42.

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