

be used to provide grants under subsection (a)(1) of this section.

(2) Priority

In providing grants under subsection (a)(1) of this section, the Administrator shall provide a preference to a United States nonprofit organization that agrees to provide—

(A) non-Federal funds in an amount equal to 50 percent of the amount of funds received under a grant under subsection (a)(1) of this section;

(B) an in-kind contribution in an amount equal to that percentage; or

(C) a combination of such funds and an in-kind contribution,

for the preparation of shelf-stable prepackaged foods and the establishment and maintenance of stockpiles of the foods in the United States in accordance with subsection (a)(1) of this section.

(c) Grants for rapid transportation, delivery, and distribution

Not less than 20 percent of the amount made available to carry out this section shall be used to provide grants under subsection (a)(2) of this section.

(d) Administration

Not more than 10 percent of the amount made available to carry out this section may be used by the Administrator for the administration of grants under subsection (a) of this section.

(e) Regulations or guidelines

Not later than 180 days after November 9, 2000, the Administrator, in consultation with the Secretary, shall issue such regulations or guidelines as the Administrator determines to be necessary to carry out this section, including regulations or guidelines that provide to United States nonprofit organizations eligible to receive grants under subsection (a)(1) of this section guidance with respect to the requirements for qualified shelf-stable prepackaged foods and the quantity of the foods to be stockpiled by the organizations.

(f) Authorization of appropriations

There is authorized to be appropriated to the Administrator to carry out this section, in addition to amounts otherwise available to carry out this section, \$8,000,000 for each of fiscal years 2001 through 2012, to remain available until expended.

(July 10, 1954, ch. 469, title II, § 208, as added Pub. L. 106-472, title III, § 310(a), Nov. 9, 2000, 114 Stat. 2075; amended Pub. L. 107-171, title III, § 3008, May 13, 2002, 116 Stat. 283; Pub. L. 110-246, title III, § 3013, June 18, 2008, 122 Stat. 1826.)

PRIOR PROVISIONS

A prior section 1726b, act July 10, 1954, ch. 469, title II, § 208, as added Dec. 22, 1987, Pub. L. 100-202, § 15, 101 Stat. 1329-449, which related to periods for review of proposals for famine relief and promulgation of guidelines for such proposals, was omitted in the general revision of this chapter by Pub. L. 101-624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3633.

AMENDMENTS

2008—Subsec. (f). Pub. L. 110-246 substituted “\$8,000,000” for “\$3,000,000” and “2012” for “2007”.

2002—Subsec. (f). Pub. L. 107-171 substituted “through 2007” for “and 2002”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-246 effective May 22, 2008, see section 4(b) of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

§ 1726c. Local and regional food aid procurement projects

(a) Definitions

In this section:

(1) Administrator

The term “Administrator” means the Administrator of the Agency for International Development.

(2) Appropriate committee of Congress

The term “appropriate committee of Congress” means—

(A) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(B) the Committee on Agriculture of the House of Representatives; and

(C) the Committee on Foreign Affairs of the House of Representatives.

(3) Eligible commodity

The term “eligible commodity” means an agricultural commodity (or the product of an agricultural commodity) that—

(A) is produced in, and procured from, a developing country; and

(B) at a minimum, meets each nutritional, quality, and labeling standard of the country that receives the agricultural commodity, as determined by the Secretary.

(4) Eligible organization

The term “eligible organization” means an organization that is—

(A) described in section 1722(d) of this title; and

(B) with respect to nongovernmental organizations, subject to regulations promulgated or guidelines issued to carry out this section, including United States audit requirements that are applicable to nongovernmental organizations.

(b) Study; field-based projects

(1) Study

(A) In general

Not later than 30 days after June 18, 2008, the Secretary shall initiate a study of prior local and regional procurements for food aid programs conducted by—

(i) other donor countries;

(ii) private voluntary organizations; and

(iii) the World Food Program of the United Nations.

(B) Report

Not later than 180 days after June 18, 2008, the Secretary shall submit to the appropriate committees of Congress a report containing the results of the study conducted under subparagraph (A).

(2) Field-based projects

(A) In general

In accordance with subparagraph (B), the Secretary shall provide grants to, or enter

into cooperative agreements with, eligible organizations to carry out field-based projects that consist of local or regional procurements of eligible commodities to respond to food crises and disasters in accordance with this section.

(B) Consultation with Administrator

In carrying out the development and implementation of field-based projects under subparagraph (A), the Secretary shall consult with the Administrator.

(c) Procurement

(1) In general

Any eligible commodity that is procured for a field-based project carried out under subsection (b)(2) shall be procured through any approach or methodology that the Secretary considers to be an effective approach or methodology to provide adequate information regarding the manner by which to expedite, to the maximum extent practicable, the provision of food aid to affected populations without significantly increasing commodity costs for low-income consumers who procure commodities sourced from the same markets at which the eligible commodity is procured.

(2) Requirements

(A) Impact on local farmers and countries

The Secretary shall ensure that the local or regional procurement of any eligible commodity under this section will not have a disruptive impact on farmers located in, or the economy of—

- (i) the recipient country of the eligible commodity; or
- (ii) any country in the region in which the eligible commodity may be procured.

(B) Transshipment

The Secretary shall, in accordance with such terms and conditions as the Secretary considers to be appropriate, require from each eligible organization commitments designed to prevent or restrict—

- (i) the resale or transshipment of any eligible commodity procured under this section to any country other than the recipient country; and
- (ii) the use of the eligible commodity for any purpose other than food aid.

(C) World prices

(i) In general

In carrying out this section, the Secretary shall take any precaution that the Secretary considers to be reasonable to ensure that the procurement of eligible commodities will not unduly disrupt—

- (I) world prices for agricultural commodities; or
- (II) normal patterns of commercial trade with foreign countries.

(ii) Procurement price

The procurement of any eligible commodity shall be made at a reasonable market price with respect to the economy of the country in which the eligible commodity is procured, as determined by the Secretary.

(d) Regulations; guidelines

(1) In general

In accordance with paragraph (2), not later than 180 days after the date of completion of the study under subsection (b)(1), the Secretary shall promulgate regulations or issue guidelines to carry out field-based projects under this section.

(2) Requirements

(A) Use of study

In promulgating regulations or issuing guidelines under paragraph (1), the Secretary shall take into consideration the results of the study described in subsection (b)(1).

(B) Public review and comment

In promulgating regulations or issuing guidelines under paragraph (1), the Secretary shall provide an opportunity for public review and comment.

(3) Availability

The Secretary shall not approve the procurement of any eligible commodity under this section until the date on which the Secretary promulgates regulations or issues guidelines under paragraph (1).

(e) Field-based project grants or cooperative agreements

(1) In general

The Secretary shall award grants to, or enter into cooperative agreements with, eligible organizations to carry out field-based projects.

(2) Requirements of eligible organizations

(A) Application

(i) In general

To be eligible to receive a grant from, or enter into a cooperative agreement with, the Secretary under this subsection, an eligible organization shall submit to the Secretary an application by such date, in such manner, and containing such information as the Secretary may require.

(ii) Other applicable requirements

Any other applicable requirement relating to the submission of proposals for consideration shall apply to the submission of an application required under clause (i), as determined by the Secretary.

(B) Completion requirement

To be eligible to receive a grant from, or enter into a cooperative agreement with, the Secretary under this subsection, an eligible organization shall agree—

- (i) to collect by September 30, 2011, data containing the information required under subsection (f)(1)(B) relating to the field-based project funded through the grant; and
- (ii) to provide to the Secretary the data collected under clause (i).

(3) Requirements of Secretary

(A) Project diversity

(i) In general

Subject to clause (ii) and subparagraph (B), in selecting proposals for field-based

projects to fund under this section, the Secretary shall select a diversity of projects, including projects located in—

- (I) food surplus regions;
- (II) food deficit regions (that are carried out using regional procurement methods); and
- (III) multiple geographical regions.

(ii) Priority

In selecting proposals for field-based projects under clause (i), the Secretary shall ensure that the majority of selected proposals are for field-based projects that—

- (I) are located in Africa; and
- (II) procure eligible commodities that are produced in Africa.

(B) Development assistance

A portion of the funds provided under this subsection shall be made available for field-based projects that provide development assistance for a period of not less than 1 year.

(4) Availability

The Secretary shall not award a grant to any eligible organization under paragraph (1) until the date on which the Secretary promulgates regulations or issues guidelines under subsection (d)(1).

(f) Independent evaluations; report

(1) Independent evaluations

(A) In general

Not later than November 1, 2011, the Secretary shall ensure that an independent third party conducts an independent evaluation of all field-based projects that—

- (i) addresses each factor described in subparagraph (B); and
- (ii) is conducted in accordance with this section.

(B) Required factors

The Secretary shall require the independent third party to develop—

- (i) with respect to each relevant market in which an eligible commodity was procured under this section, a description of—
 - (I) the prevailing and historic supply, demand, and price movements of the market (including the extent of competition for procurement bids);
 - (II) the impact of the procurement of the eligible commodity on producer and consumer prices in the market;
 - (III) each government market interference or other activity of the donor country that might have significantly affected the supply or demand of the eligible commodity in the area at which the local or regional procurement occurred;
 - (IV) the quantities and types of eligible commodities procured in the market;
 - (V) the time frame for procurement of each eligible commodity; and
 - (VI) the total cost of the procurement of each eligible commodity (including storage, handling, transportation, and administrative costs);

(ii) an assessment regarding—

(I) whether the requirements of this section have been met;

(II) the impact of different methodologies and approaches on—

- (aa) local and regional agricultural producers (including large and small agricultural producers);
- (bb) markets;
- (cc) low-income consumers; and
- (dd) program recipients; and

(III) the length of the period beginning on the date on which the Secretary initiated the procurement process and ending on the date of delivery of eligible commodities;

(iii) a comparison of different methodologies used to carry out this section, with respect to—

- (I) the benefits to local agriculture;
- (II) the impact on markets and consumers;
- (III) the period of time required for procurement and delivery;
- (IV) quality and safety assurances; and
- (V) implementation costs; and

(iv) to the extent adequate information is available (including the results of the report required under subsection (b)(1)(B)), a comparison of the different methodologies used by other donor countries to make local and regional procurements.

(C) Independent third party access to records and reports

The Secretary shall provide to the independent third party access to each record and report that the independent third party determines to be necessary to complete the independent evaluation.

(D) Public access to records and reports

Not later than 180 days after the date described in paragraph (2), the Secretary shall provide public access to each record and report described in subparagraph (C).

(2) Report

Not later than 4 years after June 18, 2008, the Secretary shall submit to the appropriate committees of Congress a report that contains the analysis and findings of the independent evaluation conducted under paragraph (1)(A).

(g) Funding

(1) Commodity Credit Corporation

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

(2) Funding amounts

Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section—

- (A) \$5,000,000 for fiscal year 2009;
- (B) \$25,000,000 for fiscal year 2010;
- (C) \$25,000,000 for fiscal year 2011; and
- (D) \$5,000,000 for fiscal year 2012.

(Pub. L. 110-246, title III, §3206, June 18, 2008, 122 Stat. 1840.)

CODIFICATION

Section was enacted as part of the Food, Conservation, and Energy Act of 2008, and not as part of the Food for Peace Act which comprises this chapter.

EFFECTIVE DATE

Section effective May 22, 2008, see section 4(b) of Pub. L. 110-246, set out as a note under section 8701 of this title.

DEFINITION OF "SECRETARY"

"Secretary" as meaning the Secretary of Agriculture, see section 8701 of this title.

SUBCHAPTER III—A—FOOD FOR DEVELOPMENT

§ 1727. Bilateral grant program

(a) In general

The President shall establish a program under which agricultural commodities are donated in accordance with this subchapter to least developed countries. The revenue generated by the sale of such commodities in the recipient country may be utilized for economic development activities. Such program shall be implemented by the Administrator.

(b) General authority

To carry out the policies and accomplish the objectives described in section 1691 of this title, the Administrator may negotiate and execute agreements with least developed countries to provide commodities to such countries on a grant basis.

(July 10, 1954, ch. 469, title III, § 301, as added Pub. L. 95-88, title II, § 211(a)(2), Aug. 3, 1977, 91 Stat. 548; amended Pub. L. 96-53, title II, § 204(a), Aug. 14, 1979, 93 Stat. 369; Pub. L. 99-198, title XI, § 1112(a)(3), Dec. 23, 1985, 99 Stat. 1478; Pub. L. 100-576, § 4(a)(1), Oct. 31, 1988, 102 Stat. 2898; Pub. L. 101-624, title XV, § 1512, Nov. 28, 1990, 104 Stat. 3641.)

PRIOR PROVISIONS

A prior section 301 of act July 10, 1954, ch. 469, title III, 68 Stat. 458, which amended section 1427 of this title, was renumbered section 308 by Pub. L. 95-88, title II, § 211(a)(1), Aug. 3, 1977, 91 Stat. 548.

AMENDMENTS

1990—Pub. L. 101-624 amended section generally, substituting present provisions for provisions outlining Congressional purpose with regard to Food for Development Program, establishment of program, goal of assistance under program, range of assistance and emphasized activities, and use of funds for disaster assistance.

1988—Subsec. (c). Pub. L. 100-576 added subsec. (c).

1985—Subsec. (b). Pub. L. 99-198 inserted "(including immunization of children)" after "health services".

1979—Subsec. (a). Pub. L. 96-53 inserted ", or the dollar sales value of the commodities themselves," after "the local sale of such commodities", and substituted "in the participating country of funds from the sale of such commodities or of the commodities themselves" for "of funds from the sale of such commodities in the participating country".

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101-624, set out as a note under section 1691 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96-53, set out as a note under

section 2151 of Title 22, Foreign Relations and Inter-course.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

AMENDMENT OF FOOD FOR DEVELOPMENT AGREEMENTS; DISASTER ASSISTANCE FOR BANGLADESH

Pub. L. 100-576, § 4(a)(2), (3), Oct. 31, 1988, 102 Stat. 2898, provided that:

"(2) Food for Development agreements entered into under title III of that Act [this subchapter] before the date of enactment of this Act [Oct. 31, 1988] may be amended in order to implement the amendment made by paragraph (1) [amending this section].

"(3) Pending amendment pursuant to paragraph (2) of Food for Development agreements with the Government of Bangladesh, the use of funds accruing under those agreements, with the approval of the United States Government, for flood-related disaster assistance authorized by the amendment made by paragraph (1) shall be deemed to be consistent with the applicable agreement."

INCREASED IMMUNIZATIONS OF CHILDREN; REPORTING REQUIREMENT

Pub. L. 99-198, title XI, § 1112(b), Dec. 23, 1985, 99 Stat. 1478, as amended by Pub. L. 110-246, title III, § 3001(c), June 18, 2008, 122 Stat. 1821, provided that: "In the implementation of health programs undertaken in relation to assistance provided under the Food for Peace Act [this chapter], it shall be the goal of the organizations and agencies involved to provide as many additional immunizations of children as possible. Such increased immunization activities should be taken in coordination with similar efforts of other organizations and in keeping with any national plans for expanded programs of immunization. The President shall include information concerning such immunization activities in the annual reports required by section 634 of the Foreign Assistance Act of 1961 [22 U.S.C. 2394], including a report on the estimated number of immunizations provided each year pursuant to this subsection."

IMPLEMENTATION OF PROGRAM

Program under this subchapter to provide for donation of agricultural commodities to least developed countries to be implemented by Administrator of the Agency for International Development, see Ex. Ord. No. 12752, § 1(c), Feb. 25, 1991, 56 F.R. 8255, set out as a note under section 1691 of this title.

§ 1727a. Eligible countries

(a) Least developed countries

A country shall be considered to be a least developed country and eligible for the donation of agricultural commodities under this subchapter if—

(1) such country meets the poverty criteria established by the International Bank for Reconstruction and Development for Civil Works Preference for providing financial assistance; or

(2) such country is a food deficit country and is characterized by high levels of malnutrition among significant numbers of its population, as determined by the Administrator under subsection (b) of this section.

(b) Indicators of food deficit countries

To make a finding under subsection (a)(2) of this section that a country is a food deficit country and is characterized by high levels of malnutrition, the Administrator must deter-