

biobased products is removed. The review shall be on a 4-year cycle. Significant review should be completed within 1 year of the date of this memorandum, and the results of the reviews shall be annually reported to OMB and the Office of Science and Technology Policy (OSTP); and

(d) the Secretary of Agriculture to amend USDA's automated contract writing system, the Integrated Acquisition System, to serve as a model for biobased product procurement throughout the Federal Government by adding elements related to acquisition planning, evaluation factors for source selection, and specifications and requirements. Once completed, USDA shall share the model with all agencies and, as appropriate, assist any agency efforts to adopt similar mechanisms.

SEC. 4. *Small Business Assistance.* A majority of the biobased product manufacturers and vendors selling biobased products and services that use biobased products to the Federal Government are small businesses. To improve the ability of small businesses to sell these products and services to the Federal Government, I direct:

(a) the Secretary of Commerce, in consultation with the Secretary of Agriculture, to use relevant programs of the Department, such as the Manufacturing Extension Partnership network, to improve the performance and competitiveness of biobased product manufacturers;

(b) the Secretary of Agriculture to work cooperatively with Procurement Technical Assistance Center programs located across the Nation to provide training and assistance to biobased product companies to make these companies aware of the BioPreferred program and opportunities to sell biobased products to Federal, State, and local government agencies; and

(c) the Secretary of Agriculture to develop training within 6 months of the date of this memorandum for small businesses on the BioPreferred program and the opportunities it presents, and the Administrator of the Small Business Administration (SBA) to disseminate that training to Small Business Development Centers and feature it on the SBA website.

SEC. 5. *Reporting.* The Federal Government should obtain the most reliable information to gauge its progress in purchasing biobased products, including measuring the annual number of procurements that include direct purchase of biobased products, the annual number of construction and service contracts that include the purchase of biobased products, and the annual volume and type of biobased products the Federal Government purchases. I direct that:

(a) within 1 year of the date of this memorandum, the Federal Acquisition Regulatory Council shall propose an amendment to the Federal Acquisition Regulation to require reporting of biobased product purchases, to be made public on an annual basis; and

(b) following the promulgation of the proposed amendment referenced in subsection (a) of this section, the Secretary of Agriculture, in consultation with the Chief Acquisition Officers Council, shall develop a reporting template to facilitate the annual reporting requirement.

SEC. 6. *Jobs Creation Research.* Biobased products are creating jobs across America. These innovative products are creating new markets for agriculture and expanding opportunities in rural America. Therefore, I direct the Secretary of Agriculture to prepare a report on job creation and the economic impact associated with the biobased product industry to be submitted to the President through the Domestic Policy Council and OSTP within 2 years of the date of this memorandum. The study shall include:

(a) the number of American jobs originating from the biobased product industry annually over the last 10 years, including the job changes in specific sectors;

(b) the dollar value of the current domestic biobased products industry, including intermediates, feedstocks, and finished products, but excluding biofuels;

(c) a forecast for biobased job creation potential over the next 10 years;

(d) a forecast for growth in the biobased industry over the next 10 years; and

(e) jobs data for both biofuels and biobased products, but shall generate separate data for each category.

SEC. 7. *Education and Outreach.* In compliance with the 2002 Farm Bill, several agencies established agency promotion programs to support the biobased products procurement preference. The Federal Acquisition Institute has added biobased procurement training to its course offerings. To assure both formal and informal educational and outreach instruction on the BioPreferred program are in place and being implemented by each agency, I direct:

(a) the Secretary of Agriculture to update all existing USDA BioPreferred and related sustainable acquisition training materials within 1 year of the date of this memorandum;

(b) the Senior Sustainability Officers and Chief Acquisition Officers of agencies to work cooperatively with the Secretary of Agriculture to immediately implement such BioPreferred program agency education and outreach programs as are necessary to meet the requirements of this memorandum and relevant statutes; and

(c) the Secretary of Agriculture to work actively with the Committee for Purchase From People Who Are Blind or Severely Disabled to promote education and outreach to program, technical, and contracting personnel, and to purchase card holders on BioPreferred AbilityOne products.

SEC. 8. *General Provisions.* (a) This memorandum shall apply to an agency with respect to the activities, personnel, resources, and facilities of the agency that are located within the United States. The head of an agency may provide that this memorandum shall apply in whole or in part with respect to the activities, personnel, resources, and facilities of the agency that are not located within the United States, if the head of the agency determines that such application is in the interest of the United States.

(b) The head of an agency shall manage activities, personnel, resources, and facilities of the agency that are not located within the United States, and with respect to which the head of the agency has not made a determination under subsection (a) of this section, in a manner consistent with the policies set forth in this memorandum, to the extent the head of the agency determines practicable.

(c) For purposes of this memorandum, "biobased product" shall have the meaning set forth in section 8101(4) of title 7, United States Code.

(d) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(e) The Secretary of Agriculture is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 8103. Biorefinery assistance

(a) Purpose

The purpose of this section is to assist in the development of new and emerging technologies for the development of advanced biofuels, so as to—

(1) increase the energy independence of the United States;

(2) promote resource conservation, public health, and the environment;

(3) diversify markets for agricultural and forestry products and agriculture waste material; and

(4) create jobs and enhance the economic development of the rural economy.

(b) Definitions

In this section:

(1) Eligible entity

The term “eligible entity” means an individual, entity, Indian tribe, or unit of State or local government, including a corporation, farm cooperative, farmer cooperative organization, association of agricultural producers, National Laboratory, institution of higher education, rural electric cooperative, public power entity, or consortium of any of those entities.

(2) Eligible technology

The term “eligible technology” means, as determined by the Secretary—

(A) a technology that is being adopted in a viable commercial-scale operation of a biorefinery that produces an advanced biofuel; and

(B) a technology not described in subparagraph (A) that has been demonstrated to have technical and economic potential for commercial application in a biorefinery that produces an advanced biofuel.

(c) Assistance

The Secretary shall make available to eligible entities—

(1) grants to assist in paying the costs of the development and construction of demonstration-scale biorefineries to demonstrate the commercial viability of 1 or more processes for converting renewable biomass to advanced biofuels; and

(2) guarantees for loans made to fund the development, construction, and retrofitting of commercial-scale biorefineries using eligible technology.

(d) Grants**(1) Competitive basis**

The Secretary shall award grants under subsection (c)(1) on a competitive basis.

(2) Selection criteria**(A) In general**

In approving grant applications, the Secretary shall establish a priority scoring system that assigns priority scores to each application and only approve applications that exceed a specified minimum, as determined by the Secretary.

(B) Feasibility

In approving a grant application, the Secretary shall determine the technical and economic feasibility of the project based on a feasibility study of the project described in the application conducted by an independent third party.

(C) Scoring system

In determining the priority scoring system, the Secretary shall consider—

(i) the potential market for the advanced biofuel and the byproducts produced;

(ii) the level of financial participation by the applicant, including support from non-Federal and private sources;

(iii) whether the applicant is proposing to use a feedstock not previously used in the production of advanced biofuels;

(iv) whether the applicant is proposing to work with producer associations or cooperatives;

(v) whether the applicant has established that the adoption of the process proposed in the application will have a positive impact on resource conservation, public health, and the environment;

(vi) the potential for rural economic development;

(vii) whether the area in which the applicant proposes to locate the biorefinery has other similar facilities;

(viii) whether the project can be replicated; and

(ix) scalability for commercial use.

(3) Cost sharing**(A) Limits**

The amount of a grant awarded for development and construction of a biorefinery under subsection (c)(1) shall not exceed an amount equal to 30 percent of the cost of the project.

(B) Form of grantee share**(i) In general**

The grantee share of the cost of a project may be made in the form of cash or material.

(ii) Limitation

The amount of the grantee share that is made in the form of material shall not exceed 15 percent of the amount of the grantee share determined under subparagraph (A).

(e) Loan guarantees**(1) Selection criteria****(A) In general**

In approving loan guarantee applications, the Secretary shall establish a priority scoring system that assigns priority scores to each application and only approve applications that exceed a specified minimum, as determined by the Secretary.

(B) Feasibility

In approving a loan guarantee application, the Secretary shall determine the technical and economic feasibility of the project based on a feasibility study of the project described in the application conducted by an independent third party.

(C) Scoring system

In determining the priority scoring system for loan guarantees under subsection (c)(2), the Secretary shall consider—

(i) whether the applicant has established a market for the advanced biofuel and the byproducts produced;

(ii) whether the area in which the applicant proposes to place the biorefinery has other similar facilities;

(iii) whether the applicant is proposing to use a feedstock not previously used in the production of advanced biofuels;

(iv) whether the applicant is proposing to work with producer associations or cooperatives;

(v) the level of financial participation by the applicant, including support from non-Federal and private sources;

(vi) whether the applicant has established that the adoption of the process proposed in the application will have a positive impact on resource conservation, public health, and the environment;

(vii) whether the applicant can establish that if adopted, the biofuels production technology proposed in the application will not have any significant negative impacts on existing manufacturing plants or other facilities that use similar feedstocks;

(viii) the potential for rural economic development;

(ix) the level of local ownership proposed in the application; and

(x) whether the project can be replicated.

(2) Limitations

(A) Maximum amount of loan guaranteed

The principal amount of a loan guaranteed under subsection (c)(2) may not exceed \$250,000,000.

(B) Maximum percentage of loan guaranteed

(i) In general

Except as otherwise provided in this subparagraph, a loan guaranteed under subsection (c)(2) shall be in an amount not to exceed 80 percent of the project costs, as determined by the Secretary.

(ii) Other direct Federal funding

The amount of a loan guaranteed for a project under subsection (c)(2) shall be reduced by the amount of other direct Federal funding that the eligible entity receives for the same project.

(iii) Authority to guarantee the loan

The Secretary may guarantee up to 90 percent of the principal and interest due on a loan guaranteed under subsection (c)(2).

(C) Loan guarantee fund distribution

Of the funds made available for loan guarantees for a fiscal year under subsection (h), 50 percent of the funds shall be reserved for obligation during the second half of the fiscal year.

(f) Consultation

In carrying out this section, the Secretary shall consult with the Secretary of Energy.

(g) Condition on provision of assistance

(1) In general

As a condition of receiving a grant or loan guarantee under this section, an eligible entity shall ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed, in whole or in part, with the grant or loan guarantee, as the case may be, shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141 through 3144, 3146, and 3147 of title 40.

(2) Authority and functions

The Secretary of Labor shall have, with respect to the labor standards described in paragraph (1), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App) and section 3145 of title 40.

(h) Funding

(1) Mandatory funding

Of the funds of the Commodity Credit Corporation, the Secretary shall use for the cost of loan guarantees under this section, to remain available until expended—

(A) \$75,000,000 for fiscal year 2009; and

(B) \$245,000,000 for fiscal year 2010.

(2) Discretionary funding

In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section \$150,000,000 for each of fiscal years 2009 through 2013.

(Pub. L. 107-171, title IX, §9003, as added Pub. L. 110-234, title IX, §9001(a), May 22, 2008, 122 Stat. 1310, and Pub. L. 110-246, §4(a), title IX, §9001(a), June 18, 2008, 122 Stat. 1664, 2072; amended Pub. L. 112-240, title VII, §701(f)(2), Jan. 2, 2013, 126 Stat. 2365.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (g)(2), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 8103, Pub. L. 107-171, title IX, §9003, May 13, 2002, 116 Stat. 478, related to biorefinery development grants, prior to the general amendment of this chapter by Pub. L. 110-246.

AMENDMENTS

2013—Subsec. (h)(2). Pub. L. 112-240 substituted “2013” for “2012”.

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-240 effective Sept. 30, 2012, see section 701(j) of Pub. L. 112-240, set out in a 1-Year Extension of Agricultural Programs note under section 8701 of this title.

§ 8104. Repowering assistance

(a) In general

The Secretary shall carry out a program to encourage biorefineries in existence on the date of enactment of the Food, Conservation, and Energy Act of 2008 to replace fossil fuels used to produce heat or power to operate the biorefineries by making payments for—

(1) the installation of new systems that use renewable biomass; or

(2) the new production of energy from renewable biomass.

(b) Payments

(1) In general

The Secretary may make payments under this section to any biorefinery that meets the