

Washington, D.C., and proposals and milestones that apply to all contracts entered into by or on behalf of the Agency by offices outside Washington, D.C.

“(2) Proposals and milestones of the Agency to increase the amount of subcontracting to businesses described in such subsection (a)(3) by the prime contractors of the Agency.

“(3) With the milestones described in paragraph (2), a description of how the Administrator plans to use the failure of a prime contractor to meet goals as a ranking factor for evaluating any other submission from the contractor for future contracts by the Agency.

“(c) ANNUAL REPORTS.—Not later than January 31, 2004, January 31, 2005, and January 31, 2006, the Administrator shall submit to the designated congressional committees a report for the preceding fiscal year that contains a description of the percentage of total contract and grant and cooperative agreement dollar amounts that were entered into by the Agency, and the total number of contracts and grants and cooperative agreements that were awarded by the Agency, to small businesses in each category specified in clauses (i) through (v) of subsection (a)(1)(A) during such fiscal year. The report for a fiscal year shall include, separately stated for contracts and grant and cooperative agreements entered into by the Agency, the percentage of the contracts and grant and cooperative agreements, respectively, that were awarded to small businesses in each such category, as computed on the basis of dollar amounts. The report shall also include a description of achievements toward measurable milestones for direct contracts of the Agency entered into by offices outside of Washington, D.C., and for subcontracting by prime contractors of the Agency.

“(d) DEFINITIONS.—In this section:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the United States Agency for International Development.

“(2) AGENCY.—The term ‘Agency’ means the United States Agency for International Development.

“(3) DESIGNATED CONGRESSIONAL COMMITTEES.—The term ‘designated congressional committees’ means—

“(A) the Committee on International Relations [now Committee on Foreign Affairs] and the Committee on Small Business of the House of Representatives; and

“(B) the Committee on Foreign Relations and the Committee on Small Business [now Committee on Small Business and Entrepreneurship] of the Senate.”

#### OFFICE IN AGENCY FOR INTERNATIONAL DEVELOPMENT

For location of the Office of Small Business, provided for in subsec. (b), in the United States Agency for International Development, see section 1–200(d) of Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

#### PROCUREMENTS FROM SMALL BUSINESSES

Pub. L. 94–329, title VI, §602, June 30, 1976, 90 Stat. 766, provided that: “In order to encourage procurements from small business concerns under chapter 4 of the Foreign Assistance Act of 1961 [part IV of subchapter II of this chapter], the Administrator of the Agency for International Development shall report to the Congress every six months on the extent to which small businesses have participated in procurements under such chapter [part] and on what efforts the Agency has made to foster such procurements from small business concerns. The Small Business Administration shall lend all available assistance to the Agency for the purposes of carrying out this section.”

[For termination, effective May 15, 2000, of reporting provisions in section 602 of Pub. L. 94–329, set out above, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 130 of House Document No. 103–7.]

### § 2353. Shipping on United States vessels

The ocean transportation between foreign countries of commodities and defense articles purchased with foreign currencies made available or derived from funds made available under this chapter or the Food for Peace Act, as amended [7 U.S.C. 1691 et seq.], and transfers of fresh fruit and products thereof under this chapter, shall not be governed by the provisions of section 55305 of title 46, or any other law relating to the ocean transportation of commodities on United States flag vessels.

(Pub. L. 87–195, pt. III, §603, Sept. 4, 1961, 75 Stat. 439; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(Q), June 18, 2008, 122 Stat. 1820.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Food for Peace Act, as amended, referred to in text, is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified principally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

#### CODIFICATION

In text, “section 55305 of title 46” substituted for “section 901(b) of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1241)” on authority of Pub. L. 109–304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 55305 of Title 46, Shipping.

#### AMENDMENTS

2008—Pub. L. 110–246 substituted “Food for Peace Act” for “Agricultural Trade Development and Assistance Act of 1954”.

#### 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 Title 7, Agriculture.

### § 2354. Procurement

#### (a) Limitations on procurement outside United States

(1) Funds made available for assistance under this chapter may be used by the President for procurement—

(A) only in the United States, the recipient country, or developing countries; or

(B) in any other country but only if—

(i) the provision of such assistance requires commodities or services of a type that are not produced in and available for purchase in any country specified in subparagraph (A); or

(ii) the President determines, on a case-by-case basis, that procurement in such other country is necessary—

(I) to meet unforeseen circumstances, such as emergency situations, where it is important to permit procurement in a country not specified in subparagraph (A); or

(II) to promote efficiency in the use of United States foreign assistance resources,