

for assistance under section 5174 of title 42, either under the pilot program under this section or other potential housing programs; and

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

**(b) Pilot program project approval**

The Administrator shall not approve a project under the pilot program after December 31, 2008. (Pub. L. 109–295, title VI, § 689i, Oct. 4, 2006, 120 Stat. 1454.)

**§ 777. Public assistance pilot program**

**(a) Pilot program**

**(1) In general**

The President, acting through the Administrator, and in coordination with State and local governments, shall establish and conduct a pilot program to—

(A) reduce the costs to the Federal Government of providing assistance to States and local governments under sections 5170b(a)(3)(A), 5172, and 5173 of title 42;

(B) increase flexibility in the administration of sections 5170b(a)(3)(A), 5172, and 5173 of title 42; and

(C) expedite the provision of assistance to States and local governments provided under sections 5170b(a)(3)(A), 5172, and 5173 of title 42.

**(2) Participation**

Only States and local governments that elect to participate in the pilot program may participate in the pilot program for a particular project.

**(3) Innovative administration**

**(A) In general**

For purposes of the pilot program, the Administrator shall establish new procedures to administer assistance provided under the sections referred to in paragraph (1).

**(B) New procedures**

The new procedures established under subparagraph (A) may include 1 or more of the following:

(i) Notwithstanding section 5172(c)(1)(A) of title 42, providing an option for a State 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.

(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 avail-