

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-