

**§ 2036. Availability of commodities for emergency food assistance program**

**(a) Purchase of commodities**

**(1) In general**

From amounts made available to carry out this chapter, for each of the fiscal years 2014 through 2023, the Secretary shall purchase a dollar amount described in paragraph (2) of a variety of nutritious and useful commodities of the types that the Secretary has the authority to acquire through the Commodity Credit Corporation or under section 612c of this title and distribute the commodities to States for distribution in accordance with section 7515 of this title.

**(2) Amounts**

The Secretary shall use to carry out paragraph (1)—

(A) for fiscal year 2008, \$190,000,000;

(B) for fiscal year 2009, \$250,000,000;

(C) for each of fiscal years 2010 through 2023, the dollar amount of commodities specified in subparagraph (B) adjusted by the percentage by which the thrifty food plan has been adjusted under section 2012(u)(4) of this title between June 30, 2008, and June 30 of the immediately preceding fiscal year;

(D) for each of fiscal years 2015 through 2023, the sum obtained by adding the total dollar amount of commodities specified in subparagraph (C) and—

(i) for fiscal year 2015, \$50,000,000;

(ii) for fiscal year 2016, \$40,000,000;

(iii) for fiscal year 2017, \$20,000,000;

(iv) for fiscal year 2018, \$15,000,000;

(v) for fiscal year 2019, \$23,000,000;

(vi) for fiscal year 2020, \$35,000,000;

(vii) for fiscal year 2021, \$35,000,000;

(viii) for fiscal year 2022, \$35,000,000; and

(ix) for fiscal year 2023, \$35,000,000; and

(E) for fiscal year 2024 and each subsequent fiscal year, the total dollar amount of commodities specified in subparagraph (D)(ix) adjusted by the percentage by which the thrifty food plan has been adjusted under section 2012(u)(4) of this title to reflect changes between June 30, 2023, and June 30 of the immediately preceding fiscal year.

**(3) Funds availability**

For purposes of the funds described in this subsection, the Secretary shall—

(A) make the funds available for 2 fiscal years; and

(B) allow States to carry over unexpended balances to the next fiscal year pursuant to such terms and conditions as are determined by the Secretary.

**(b) Basis for commodity purchases**

In purchasing commodities under subsection (a), the Secretary shall, to the extent practicable and appropriate, make purchases based on—

(1) agricultural market conditions;

(2) preferences and needs of States and distributing agencies; and

(3) preferences of recipients.

(Pub. L. 88-525, §27, as added Pub. L. 104-193, title VIII, §871(g), Aug. 22, 1996, 110 Stat. 2346;

amended Pub. L. 107-171, title IV, §4126(a), May 13, 2002, 116 Stat. 328; Pub. L. 110-234, title IV, §4201(a), May 22, 2008, 122 Stat. 1120; Pub. L. 110-246, §4(a), title IV, §4201(a), June 18, 2008, 122 Stat. 1664, 1882; Pub. L. 113-79, title IV, §§4027(a), 4030(m), Feb. 7, 2014, 128 Stat. 812, 814; Pub. L. 115-334, title IV, §4018(e), Dec. 20, 2018, 132 Stat. 4650.)

**Editorial Notes**

**CODIFICATION**

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

**AMENDMENTS**

2018—Subsec. (a)(1), (2)(C). Pub. L. 115-334, §4018(e)(1), (2)(A), substituted “2023” for “2018”.

Subsec. (a)(2)(D). Pub. L. 115-334, §4018(e)(2)(B)(i), substituted “2023” for “2018” in introductory provisions.

Subsec. (a)(2)(D)(v) to (ix). Pub. L. 115-334, §4018(e)(2)(B)(ii), added cls. (v) to (ix).

Subsec. (a)(2)(E). Pub. L. 115-334, §4018(e)(2)(C), substituted “2024” for “2019”, “subparagraph (D)(ix)” for “subparagraph (D)(iv)”, and “June 30, 2023” for “June 30, 2017”.

2014—Subsec. (a)(1). Pub. L. 113-79, §4030(m), made technical amendment to reference in original act which appears in text as reference to section 7515 of this title.

Pub. L. 113-79, §4027(a)(1), substituted “2014 through 2018” for “2008 through 2012”.

Subsec. (a)(2)(C). Pub. L. 113-79, §4027(a)(2)(B)(i), substituted “2018” for “2012”.

Subsec. (a)(2)(D), (E). Pub. L. 113-79, §4027(a)(2)(A), (B)(ii), (C), added subpars. (D) and (E).

Subsec. (a)(3). Pub. L. 113-79, §4027(a)(3), added par. (3).

2008—Subsec. (a). Pub. L. 110-246, §4201(a), reenacted subsec. heading without change, designated existing provisions as par. (1), inserted par. heading, substituted “for each of the fiscal years 2008 through 2012, the Secretary shall purchase a dollar amount described in paragraph (2)” for “for each of fiscal years 2002 through 2007, the Secretary shall purchase \$140,000,000”, and added par. (2).

2002—Subsec. (a). Pub. L. 107-171 substituted “2002 through 2007” for “1997 through 2002” and “\$140,000,000” for “\$100,000,000”.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 2008 AMENDMENT**

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

Amendment by section 4201(a) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

**EFFECTIVE DATE OF 2002 AMENDMENT**

Pub. L. 107-171, title IV, §4126(b), May 13, 2002, 116 Stat. 328, provided that: “The amendments made by this section amending this section] take effect on October 1, 2001.”

**§ 2036a. Nutrition education and obesity prevention grant program**

**(a) Definition of eligible individual**

In this section, the term “eligible individual” means an individual who is eligible to receive

benefits under a nutrition education and obesity prevention program under this section as a result of being—

- (1) an individual eligible for benefits under—
  - (A) this chapter;
  - (B) sections 1758(b)(1)(A) and 1766(c)(4) of title 42; or
  - (C) section 1773(e)(1)(A) of title 42;

- (2) an individual who resides in a community with a significant low-income population, as determined by the Secretary; or

- (3) such other low-income individual as is determined to be eligible by the Secretary.

**(b) Programs**

Consistent with the terms and conditions of grants awarded under this section, State agencies may implement a nutrition education and obesity prevention program for eligible individuals that promotes healthy food choices and physical activity consistent with the most recent Dietary Guidelines for Americans published under section 5341 of this title.

**(c) Delivery of nutrition education and obesity prevention services**

**(1) In general**

State agencies may deliver nutrition education and obesity prevention services under a program described in subsection (b)—

- (A) directly to eligible individuals; or
- (B) through agreements with other State or local agencies or community organizations.

**(2) Nutrition education State plans**

**(A) In general**

A State agency that elects to provide nutrition education and obesity prevention services under this subsection shall submit to the Secretary for approval a nutrition education State plan.

**(B) Requirements**

A nutrition education State plan shall—

- (i) identify the uses of the funding for local projects;
- (ii) ensure that the interventions are appropriate for eligible individuals who are members of low-income populations by recognizing the constrained resources, and the potential eligibility for Federal food assistance programs, of members of those populations;
- (iii) describe how the State agency shall use an electronic reporting system to—
  - (I) measure and evaluate the projects; and
  - (II) account for the allowable State agency administrative costs including for—
    - (aa) salaries and benefits of State agency personnel;
    - (bb) office supplies and equipment;
    - (cc) travel costs;
    - (dd) development and production of nutrition education materials;
    - (ee) memberships, subscriptions, and professional activities;
    - (ff) lease or rental costs;
    - (gg) maintenance and repair expenses;

- (hh) indirect costs; and

- (ii) cost of using publicly-owned building space; and

- (iv) conform to standards established by the Secretary through regulations, guidance, or grant award documents.

**(3) Use of funds**

**(A) In general**

A State agency may use funds provided under this section for any evidence-based allowable use of funds identified by the Administrator of the Food and Nutrition Service of the Department of Agriculture in consultation with the Director of the Centers for Disease Control and Prevention of the Department of Health and Human Services, including—

- (i) individual and group-based nutrition education, health promotion, and intervention strategies;
- (ii) comprehensive, multilevel interventions at multiple complementary organizational and institutional levels; and
- (iii) community and public health approaches to improve nutrition.

**(B) Consultation**

In identifying allowable uses of funds under subparagraph (A) and in seeking to strengthen delivery, oversight, and evaluation of nutrition education, the Administrator of the Food and Nutrition Service shall consult with the Director of the Centers for Disease Control and Prevention, the Director of the National Institute of Food and Agriculture, and outside stakeholders and experts, including—

- (i) representatives of the academic and research communities;
- (ii) nutrition education practitioners;
- (iii) representatives of State and local governments; and
- (iv) community organizations that serve low-income populations.

**(4) Notification**

To the maximum extent practicable, State agencies shall notify applicants, participants, and eligible individuals under this chapter of the availability of nutrition education and obesity prevention services under this section in local communities.

**(5) Coordination**

Subject to the approval of the Secretary, projects carried out with funds received under this section may be coordinated with the expanded food and nutrition education program or other health promotion or nutrition improvement strategies, whether public or privately funded, if the projects carried out with funds received under this section remain under the administrative control of the State agency.

**(6) Information clearinghouse**

The Secretary shall establish an online clearinghouse that makes available to State agencies, local agencies, institutions of higher education, and community organizations best practices for planning, implementing, and

evaluating nutrition education and obesity prevention services to ensure that projects carried out with funds received under this section are appropriate for the target population.

**(7) Technical assistance**

The Secretary shall provide technical assistance to a State agency in developing and implementing a nutrition education State plan, including—

(A) by identifying common challenges faced by entities described in paragraph (6) that participate in projects carried out with funds received under this section;

(B) by coordinating efforts to address those common challenges;

(C) by collecting and disseminating information on evidence-based practices relating to nutrition education and obesity prevention;

(D) by facilitating communication between and among grantees and subgrantees of funds received under this section;

(E) by assisting State agencies in creating or maintaining systems to compile program data; and

(F) by performing or assisting with other activities, as determined by the Secretary.

**(8) Annual State report**

Each State agency that delivers nutrition education and obesity prevention services under this subsection shall submit to the Secretary an annual report, which shall be made publicly available by the Secretary, that includes—

(A) the use of funds on the State agency's program, including for each category of allowable State agency administrative costs identified in paragraph (2)(B)(iii)(II);

(B) a description of each project carried out by that agency under this subsection, including, with respect to the project, the target population, interventions, educational materials used, key performance indicators used, and evaluations made;

(C) a comprehensive analysis of the impacts and outcomes—

(i) of the project, including with respect to the elements described in subparagraph (A); and

(ii) to the extent practicable, of completed multiyear projects; and

(D) the status of any ongoing multiyear project.

**(9) Annual Federal report**

The Administrator of the Food and Nutrition Service, in consultation with the Director of the National Institute of Food and Agriculture, shall annually submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

(A) evaluates the level of coordination between—

(i) the nutrition education and obesity prevention grant program under this section;

(ii) the expanded food and nutrition education program under section 3175 of this title; and

(iii) any other nutrition education program administered by the Department of Agriculture; and

(B) includes the use of funds on such programs including State agency administrative costs reported by States under paragraph (8)(A).

**(d) Funding**

**(1) In general**

Of funds made available each fiscal year under section 2027(a)(1) of this title, the Secretary shall reserve for allocation to State agencies to carry out the nutrition education and obesity prevention grant program under this section, to remain available for obligation for a period of 2 fiscal years—

(A) for fiscal year 2011, \$375,000,000;

(B) for fiscal year 2012, \$388,000,000;

(C) for fiscal year 2013, \$285,000,000;

(D) for fiscal year 2014, \$401,000,000;

(E) for fiscal year 2015, \$407,000,000; and

(F) for fiscal year 2016 and each subsequent fiscal year, the applicable amount during the preceding fiscal year, as adjusted to reflect any increases for the 12-month period ending the preceding June 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

**(2) Allocation**

**(A) Initial allocation**

Of the funds set aside under paragraph (1), as determined by the Secretary—

(i) for each of fiscal years 2011 through 2013, 100 percent shall be allocated to State agencies in direct proportion to the amount of funding that the State received for carrying out section 2020(f) of this title (as that section existed on the day before the December 13, 2010) during fiscal year 2009, as reported to the Secretary as of February 2010; and

(ii) subject to a reallocation under subparagraph (B)—

(I) for fiscal year 2014—

(aa) 90 percent shall be allocated to State agencies in accordance with clause (i); and

(bb) 10 percent shall be allocated to State agencies based on the respective share of each State of the number of individuals participating in the supplemental nutrition assistance program during the 12-month period ending the preceding January 31;

(II) for fiscal year 2015—

(aa) 80 percent shall be allocated to State agencies in accordance with clause (i); and

(bb) 20 percent shall be allocated in accordance with subclause (I)(bb);

(III) for fiscal year 2016—

(aa) 70 percent shall be allocated to State agencies in accordance with clause (i); and

(bb) 30 percent shall be allocated in accordance with subclause (I)(bb);

(IV) for fiscal year 2017—

(aa) 60 percent shall be allocated to State agencies in accordance with clause (i); and

(bb) 40 percent shall be allocated in accordance with subclause (I)(bb); and

(V) for fiscal year 2018 and each fiscal year thereafter—

(aa) 50 percent shall be allocated to State agencies in accordance with clause (i); and

(bb) 50 percent shall be allocated in accordance with subclause (I)(bb).

## **(B) Reallocation**

### **(i) In general**

If the Secretary determines that a State agency will not expend all of the funds allocated to the State agency for a fiscal year under paragraph (1) or in the case of a State agency that elects not to receive the entire amount of funds allocated to the State agency for a fiscal year, the Secretary shall reallocate the unexpended funds to other States during the fiscal year or the subsequent fiscal year (as determined by the Secretary) that have approved State plans under which the State agencies may expend the reallocated funds.

### **(ii) Effect of additional funds**

#### **(I) Funds received**

Any reallocated funds received by a State agency under clause (i) for a fiscal year shall be considered to be part of the fiscal year 2009 base allocation of funds to the State agency for that fiscal year for purposes of determining allocation under subparagraph (A) for the subsequent fiscal year.

#### **(II) Funds surrendered**

Any funds surrendered by a State agency under clause (i) shall not be considered to be part of the fiscal year 2009 base allocation of funds to a State agency for that fiscal year for purposes of determining allocation under subparagraph (A) for the subsequent fiscal year.

## **(3) Limitation on Federal financial participation**

### **(A) In general**

Grants awarded under this section shall be the only source of Federal financial participation under this chapter in nutrition education and obesity prevention.

### **(B) Exclusion**

Any costs of nutrition education and obesity prevention in excess of the grants authorized under this section shall not be eligible for reimbursement under section 2025(a) of this title.

### **(e) Implementation**

Not later than January 1, 2012, the Secretary shall publish in the Federal Register a description of the requirements for the receipt of a grant under this section.

(Pub. L. 88-525, §28, as added Pub. L. 111-296, title II, §241(a), Dec. 13, 2010, 124 Stat. 3232;

amended Pub. L. 112-240, title VII, §701(d)(2), Jan. 2, 2013, 126 Stat. 2363; Pub. L. 113-79, title IV, §4028, Feb. 7, 2014, 128 Stat. 813; Pub. L. 115-334, title IV, §4019, Dec. 20, 2018, 132 Stat. 4650.)

## **Editorial Notes**

### **AMENDMENTS**

2018—Subsec. (c)(2)(B). Pub. L. 115-334, §4019(1)(A)(i), substituted “A” for “Except as provided in subparagraph (C), a” in introductory provisions.

Subsec. (c)(2)(B)(iii), (iv). Pub. L. 115-334, §4019(1)(A)(ii)–(iv), added cl. (iii) and redesignated former cl. (iii) as (iv).

Subsec. (c)(2)(C). Pub. L. 115-334, §4019(1)(B), struck out subpar. (C). Text read as follows: “During each of fiscal years 2011 and 2012, a nutrition education State plan under this section shall be consistent with the requirements of section 2020(f) of this title (as that section, other than paragraph (3)(C), existed on the day before December 13, 2010).”

Subsec. (c)(3)(B). Pub. L. 115-334, §4019(2), inserted “, the Director of the National Institute of Food and Agriculture,” before “and outside stakeholders” in introductory provisions.

Subsec. (c)(5). Pub. L. 115-334, §4019(3), inserted “the expanded food and nutrition education program or” before “other health promotion”.

Subsec. (c)(6) to (9). Pub. L. 115-334, §4019(4), added pars. (6) to (9).

2014—Subsec. (b). Pub. L. 113-79 inserted “and physical activity” after “healthy food choices”.

Subsec. (d)(1)(B) to (F). Pub. L. 112-240 added subpars. (B) to (F) and struck out former subpar. (B) which read as follows: “for fiscal year 2012 and each subsequent fiscal year, the applicable amount during the preceding fiscal year, as adjusted to reflect any increases for the 12-month period ending the preceding June 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.”

## **Statutory Notes and Related Subsidiaries**

### **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.

### **EFFECTIVE DATE**

Section effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111-296, set out as a Effective Date of 2010 Amendment note under section 1751 of Title 42, The Public Health and Welfare.

## **§ 2036b. Retail food store and recipient trafficking**

### **(a) Purpose**

The purpose of this section is to provide the Department of Agriculture with additional resources to prevent trafficking in violation of this chapter by strengthening recipient and retail food store program integrity.

### **(b) Use of funds**

#### **(1) In general**

Additional funds are provided under this section to supplement the retail food store and recipient integrity activities of the Department.

#### **(2) Information technologies**

The Secretary shall use an appropriate amount of the funds provided under this sec-