REPORT REGARDING EFFORTS TO IMPROVE PROCUREMENT PLANNING

Section 3022(b) of the Food, Conservation, and Energy Act of 2008 amended section 413 of the Food for Peace Act (7 U.S.C. 1736g) (P.L. 480) to require a report by the Administrator of the United States Agency for International Development (USAID) and the Secretary of the United States Department of Agriculture (USDA) with respect to efforts taken to improve procurement planning in the coordination of foreign food assistance programs. The statute sets forth this requirement, as follows:

REPORT REGARDING EFFORTS TO IMPROVE PROCUREMENT PLANNING.—
(1) REPORT REQUIRED.—Not later than 90 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Administrator and the Secretary shall submit to each appropriate committee of Congress a report that contains a description of each effort taken by the Administrator and the Secretary to improve planning for food and transportation procurement (including efforts to eliminate bunching of food purchases).
(2) CONTENTS.—A report required under paragraph (1) should include a description of each effort taken by the Administrator and the Secretary—
(A) to improve the coordination of food purchases made by—
   (i) the United States Agency for International Development; and
   (ii) the Department of Agriculture;
(B) to increase flexibility with respect to procurement schedules;
(C) to increase the use of historical analyses and forecasting; and
(D) to improve and streamline legal claims processes for resolving transportation disputes.

This report addresses each of the content areas required by the statute.

(A) Efforts to Improve Coordination of Food Purchases by USAID and USDA

USAID and USDA have made concerted efforts to improve the coordination of food purchases for their respective foreign food assistance programs and to offset some of the different requirements that apply to individual programs. Because the Title II program is administered through USAID's Office of Food for Peace, Title II food aid is procured separately from USDA's Foreign Agricultural Service (FAS)-administered programs, namely, the McGovern-Dole International Food for Education and Child Nutrition and the Food for Progress programs. In an effort to improve interagency coordination of food assistance program purchases, USDA's Farm Service Agency (FSA) began using the Commodity Operations System (COS) in February 2007. The COS is an umbrella for several subsystems, including the Food Aid Request Entry System, the Export Bid Entry System, the Freight Bid Entry System (FBES), and the Long Term Contract System. Together, these systems automate the entry and processing of purchase requests for the foreign food assistance programs.

Throughout calendar years 2007-2008, FSA conducted testing to determine whether it is feasible to calculate electronically a combined procurement solution while factoring each program's individual constraints, including the Great Lakes Set Aside program.

The Great Lakes Set Aside Program, established pursuant to section 17 of the Maritime Security Act of 1995, dictates that bagged and processed commodities are initially allocated on the basis of lowest landed cost without regard to flag of the ocean carrier. As this set aside program applies only to the Title II Program of P.L. 480, it presents a challenge to coordinating purchases. The electronic testing proved that a combined procurement was possible in spite of the set aside requirement. These efforts culminated in the combined USAID/USDA invitation representing nearly all packaged commodity and transportation procurements for the month of June 2008. Efforts are ongoing to make the combination of these invitations standard practice.

To further enhance coordination, USDA and USAID are participating in the development of the Web Based Supply Chain Management (WBSCM) system. The international procurement portion of this system is a result of a coordinated effort between USDA (including FAS, FSA, the Food Nutrition Service, and the Agricultural Marketing Service) and USAID (including the Office of Food for Peace and USAID Transportation Division) to determine the information technology needs of each agency as they relate to the food assistance programs. At the commodity programming level, pertinent information is shared between USAID's Office of Food for Peace, FSA and FAS relating to supply chain management issues. In this regard, each agency shares information about the other's future commodity programming in order to project overall in-country commodity requirements. This coordination contributes to necessary on-the-ground information concerning ever-changing political, social, and economic landscapes, including usual marketing analyses in various countries.

With respect to bulk grain, USDA and USAID continue to combine purchases whenever possible. This effort has successfully ensured that solicitations for the purchase of bulk grains and transportation services of compatible USAID and USDA cargoes are combined. Combining solicitations has resulted in USAID and USDA sharing in a per-ton cost savings. These savings are most notable on the transportation end, where the larger volumes under the combined purchases led to lower per-ton costs. For example, in June 2008, USDA and USAID combined purchases of 37,160 metric tons to realize a freight savings of $29.20 per metric ton or $891,476.00. Again, in September 2008, USDA and USAID combined purchases of 29,390 metric tons to realize a freight savings of $130.00 per metric ton or $2,047,500.00. Coordinating the issuance of solicitations allows USAID and USDA to accommodate requests for small quantities of commodities which would otherwise be cost prohibitive to procure and transport.

(B) Efforts to Increase Flexibility with Respect to Procurement Schedules

Both USAID and USDA have recently implemented efforts to increase flexibility with respect to procurement schedules. Implementation of FBES has allowed procurement scheduling flexibility by eliminating the need for a two-step procurement process for packaged commodities.

Under the previous two-step process, pre-solicitation freight quotes (the first of the two-step process) were used to determine which U.S. load ports would be the delivery point for commodity vendors and the pick-up point for steamship lines. By restricting the

U.S. load port during this first step, USAID and USDA were not able to capitalize on the inherent geographic and cost advantages of directing cargo through other, more cost efficient U.S. load ports for awarded commodity vendors and steamship lines.

However, FBES' capacity to solve complex multivariable equations has since provided USAID and USDA the ability to optimize freight and commodity procurements subject to the constraints of cargo preference, including Great Lakes set-aside. The one-step procurement process allows all offerors to submit bids that represent their most efficient commodity delivery and cargo routing at rates that allow USAID and USDA to realize cost savings. Furthermore, allowing the market to determine the most efficient commodity delivery and cargo routing, while taking into consideration agency program requirements for timely commodity delivery overseas, has been beneficial to the Government by optimizing available commodities and vessels within current constraints.[1] This in turn limits the risk of unanticipated costs to awardees and program agencies.

Improvements in USAID's preposition operations have also contributed to procurement flexibility. Most notably, changing the warehouse locations from Lake Charles, Louisiana, and Dubai to Houston, Texas and Djibouti has placed the facilities geographically in line with USAID's food aid supply chain requirements overseas. This has enabled USAID to contract for transportation of preposition cargoes onto vessels already chartered to/from Houston and Djibouti, thereby maximizing the use of each vessel's capacity. In addition, the geographic convenience of the warehouse locations allows for greater flexibility in the selection of steamship lines as it is unnecessary for vessels to depart from their normal trade lanes.

USAID and USDA are acutely aware of the problems that may arise when "bunching" of procurements occur before the close of each fiscal year (FY). To address this issue, USDA is increasing the use of multi-year agreements with private voluntary organizations (PVOs) and the World Food Programme (WFP). These agreements permit shipments in multiple fiscal years and allow for extending procurement periods subject to available funding. This effort creates a known schedule that can meet the needs of recipients. The timing of fiscal appropriations is also a factor in reducing bunching of shipments.

FAS is expanding efforts to make purchases consistent with commercial practices. For example, FAS recently used a private company to acquire 6,320 metric tons of vegetable oil, 1,370 metric tons of milled rice, 14,490 metric tons of wheat and 250 metric tons of buckwheat groats for the McGovern-Dole International Food for Education and Child Nutrition program under strictly commercial terms. This purchase was part of USDA's Stocks for Food Initiative.

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[1] Due to the exponential decline in the U.S. flag commercial "fleet," USAID and USDA are forced to compete with DOD and other exporters for space aboard the few remaining U.S. flag vessels, of which most are tankers, barges, or other configurations ill-suited for the carriage of food-grade commodities. Moreover, of the three participating liner service container carriers utilizing U.S. flag vessels (all foreign-owned), only one services Africa. The combined effect of this reduction in fleet size along with the various applicable cargo preference restrictions and set asides (i.e., 75% compliance, geographic compliance, fix-U.S. first, the Great Lakes set-aside program, etc.) virtually eliminates any competition in transportation contracting.

USDA recognizes that transportation and commodity procurement requirements within the law can result in higher costs. Under cargo preference law, costs related to cargo preference requirements on the initial 50 percent of shipments are not subject to reimbursement by the Department of Transportation (DOT) and the costs must be borne by USAID and USDA. In addition, GAO estimated that between 2001 and 2005, USDA and USAID absorbed an additional $35 million to $56 million per year in costs on reimbursable shipments in excess of annual DOT reimbursements. (source: GAO Presentation for Panel on International Food Aid Transport: Can It Be Made More Efficient?, June 19, 2008). (In 2005, actual reimbursements to USDA and USAID were about $152 million.)

Both USDA and USAID continue to attempt to minimize the impact of these cargo preference requirements by continually updating procurement methods to reflect a more commercially oriented strategy while ensuring Federal Acquisition Regulation (FAR) compliance, Great Lakes set aside and cargo preference requirements, while trying to increase program management flexibility.

Furthermore, FAS continues to use U.S. Bank’s electronic payment system, PowerTrack, for the McGovern-Dole International Food for Education and Child Nutrition Program, and anticipates expanded use of PowerTrack or a system with the same functionality for its other programs.

USAID also attempts to minimize the impact of cargo preference requirements and adheres to commercial practices where practicable. USAID is exploring the feasibility of conducting multi-voyage freight contracts for programs of a consistent and repetitive nature. This type of contractual arrangement is common in commercial applications where supply and demand remain fairly predictable, such as in the retail and energy sectors. It provides the benefit of overall freight savings as it enables vessel owners to plan for subsequent voyages, thereby reducing any unnecessary steaming time. In addition, it improves vessel owners’ ability to secure funding necessary for capital-intensive ventures by guaranteeing future revenues for the vessel-asset.

The challenge in implementing multi-voyage freight contracts for food assistance programs is that variables comprising both the supply side (available commodities) and demand side (programmatic need) of the logistical equation are increasingly difficult to predict over time. Moreover, the need being filled through humanitarian assistance should not be unduly comprised by efforts to optimize freight costs already made difficult by U.S. cargo preference set aside programs in a protected, and therefore non-competitive, market.[2]

[2] Absent cargo preference constraints, USAID and USDA would encourage cooperating sponsors to employ commercial contracting methods such as multi-voyage freight contracts when appropriate in order to reduce transportation costs while meeting programmatic needs. However, the restrictive nature of these constraints and the lack of suitable vessels eliminates the flexibility necessary to contract on a multi-voyage basis. Cargo preference is also a limiting factor in the use of other contractual mechanisms commonplace in the transportation industry, such as contracting though a Non-Vessel Operating Common Carrier (NVOCC).

(C) Efforts to Increase the Use of Historical Analyses and Forecasting

USAID and USDA are using historical analyses and forecasting to improve the delivery of commodities for the food assistance programs. Historical commodity market price data and freight rates are made available to PVOs and WFP, which in turn use this information to attempt to determine the cost efficiencies of purchasing commodities at any point in time. This sharing of data allows PVOs and WFP to submit commodity requests for specific commodities when they are anticipated to be less expensive to procure and ship, and allows them to maximize the number of people who benefit from their programs.

The accuracy of freight forecasting is limited by the fact that U.S. flag freight rates do not follow commercial market trends. Due to the lack of competition among U.S. flag carriers, there exists no true U.S. flag freight market and therefore no market equilibrium. In actuality, U.S. flag freight rates are limited only by the Maritime Administration's fair and reasonable guideline, which is based solely upon the expected cost of the voyage as presented by the awarded carrier. The resulting cost-based system encourages inefficiency by reimbursing carriers for costs associated with the use of ill-suited vessels. As such, forcing programs to charter vessels of a size or configuration inconsistent with cargo particulars often results in rates far exceeding forecasted estimates. On a recent shipment of 21,000 metric tons of corn to the Democratic People's Republic of Korea, freight rates varied from $57.52 per ton for a foreign-flag bulk (grain) carrier to over $200 per ton from the sole U.S. flag offeror for the proposed use of a barge more than 35 years old.

With respect to forecasting, USAID and USDA continue to use innovative methodologies to determine program and PVO needs, and increase each agency's efforts to forecast and project program procurement needs throughout the year. For example, FAS routinely projects purchase requirements on both monthly and quarterly bases. FAS also performed a preliminary analysis on long-term transportation agreements and their suitability for use with FAS programs.

Another area that has been analyzed is losses related to the marine transportation of USAID and USDA commodity shipments during fiscal year 2002 to fiscal year 2006. Of the total tonnage shipped, the five-year average showed a 0.46 percent loss during the transportation from the U.S. supplier to the foreign destination. While these losses are somewhat higher than commercial levels, they are commensurate with industry standards in light of the challenging conditions in some recipient countries that the programs face.

(D) Efforts to Improve and Streamline Legal Claims Processes for Resolving Transportation Disputes

USAID and USDA recognize the challenges, complexities, and time involved in handling and resolving marine transportation disputes. The agencies have worked together to implement changes, and continue to work on additional initiatives that are expected to reduce the number of claims filed as well as simplify and expedite the claims process. One such possibility is the use of "cost and freight" (CFR) and "cost, insurance, and freight" (CIF) contract terms. The use of commercial freight contract terms may make the claims process more efficient as the potential exists to achieve costs savings through economies of scale in combining several services under one contract vehicle (freight procurement, commodity procurement, and if applicable, insurance). CFR and CIF contracts may also achieve costs savings by reducing contract administration expenses. However, other requirements that USDA and USAID must comply with, such as U.S. cargo vessel preference, may limit potential savings.

When a significant pattern or problem with commodities or the quality of commodities exists, USAID and USDA work together with implementing partners to gather information, facts, and in some cases, field product samples for analysis. If the problem is determined to be a result of commodity quality, the agencies may consider sending appropriate staff to the particular country for further investigation. For example, in 2007 USDA and USAID received several complaints regarding dry bean shipments that were believed to contain excessive foreign material. Accompanied by PVO field representatives, a team of USDA employees and USAID staff traveled to warehouses overseas to determine whether the beans met USDA standard contract specifications for the product and to gather documentation that could be used in USDA's claims process. Although trips are rarely needed, the results are often valuable during contract dispute resolution.

On September 1, 2008, USDA changed the timing of payment to vendors for commodities procured for international food assistance programs. Previously, payment was made to the vendor upon shipment from the vendor's facility. To align the payment policy for commodities with prudent business practices and to conform to the Federal Acquisition Regulations (FAR) and those statutes upon which the FAR is based, USDA's commodity procurement team changed its payment policy so that payment is made after receipt and acceptance of the commodity at the U.S. port. This change will eliminate post-contract adjustments and result in fewer claims against contracts. As an alternative to receiving payment after receipt and acceptance of the commodity at the U.S. port, on December 15, 2008, USDA revised contract terms that allow vendors to apply for advance payments at origin rather than destination, under certain conditions.

Other activities currently under way include: 1) Ongoing discussions by USDA and USAID with ocean carriers, their agents, and members of the freight forwarding community, regarding improvements related to contract issues, bridge movements, and fumigation; and 2) Use by PVOs and WFP of the newly created Commodity Concern Feedback Guides in cases where commodity loss or transportation issues arise. These guides clarify the roles of FAS, FSA, USAID headquarters and country offices, and PVOs and WFP in responding to food quality issues and monitoring and reporting requirements. 3) USDA and USAID (through modernization of 22 CFR 211) are also assessing each agency's ability to streamline the marine transportation-claims and disputes-resolution processes that currently require exhaustive, extensive rationale to obtain permission to resolve routine marine transportation claims in the range of

$50,000 to $100,000. Greater settlement authority would reduce and streamline routine claims and disputes.

SUMMARY

In summary, while USDA and USAID recognize certain cost inefficiencies exist in the procurement of foreign food assistance, the agencies have the unique missions of providing food assistance worldwide and continue to work closely together to ensure the approaches taken in administering the programs are as seamless and as efficient as possible in the delivery of food assistance.

The areas specifically targeted in the statute represent some of the most challenging issues that confront USDA and USAID in administering similar—but separate—food assistance programs. They are not new issues, and their resolution is complicated. This report does not represent an end to our evaluation of food assistance procurement planning; instead, it documents USDA's and USAID's progress to date and commitment to continue to improve the overall effectiveness and efficiency of food assistance operations within budgetary, policy, statutory and administrative constraints.