

TITLE 42 - THE PUBLIC HEALTH AND WELFARE

CHAPTER 13A - CHILD NUTRITION

§ 1792. Promoting Federal food donation

(a) In general

Not later than 180 days after June 20, 2008, the Federal Acquisition Regulation issued in accordance with section 1303 of title 41 shall be revised to provide that all contracts above \$25,000 for the provision, service, or sale of food in the United States, or for the lease or rental of Federal property to a private entity for events at which food is provided in the United States, shall include a clause that—

- (1) encourages the donation of excess, apparently wholesome food to nonprofit organizations that provide assistance to food-insecure people in the United States; and
- (2) states the terms and conditions described in subsection (b).

(b) Terms and conditions

(1) Costs

In any case in which a contractor enters into a contract with an executive agency under which apparently wholesome food is donated to food-insecure people in the United States, the head of the executive agency shall not assume responsibility for the costs and logistics of collecting, transporting, maintaining the safety of, or distributing excess, apparently wholesome food to food-insecure people in the United States under this section.

(2) Liability

An executive agency (including an executive agency that enters into a contract with a contractor) and any contractor making donations pursuant to this section shall be exempt from civil and criminal liability to the extent provided under section 1791 of this title.

(Pub. L. 110–247, § 4, June 20, 2008, 122 Stat. 2314.)

References in Text

This section, referred to in subsec. (b), was in the original “this Act”, meaning Pub. L. 110–247, June 20, 2008, 122 Stat. 2314, which enacted this section and provisions set out as notes under this section and section 1771 of this title. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note set out under section 1771 of this title and Tables.

Codification

Section was enacted as part of the Federal Food Donation Act of 2008, and not as part of the Child Nutrition Act of 1966 which comprises this chapter.

In subsec. (a), “section 1303 of title 41” substituted for “section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421)” on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

Purpose

Pub. L. 110–247, § 2, June 20, 2008, 122 Stat. 2314, provided that: “The purpose of this Act [enacting this section and provisions set out as notes under this section and section 1771 of this title] is to encourage executive agencies and contractors of executive agencies, to the maximum extent practicable and safe, to donate excess, apparently wholesome food to feed food-insecure people in the United States.”

Definitions

Pub. L. 110–247, § 3, June 20, 2008, 122 Stat. 2314, provided that: “In this Act [enacting this section and provisions set out as notes under this section and section 1771 of this title]:

“(1) Apparently wholesome food.—The term ‘apparently wholesome food’ has the meaning given the term in section 2 (b) [probably means subsec. (b)] of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791 (b)).

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2012 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

“(2) Excess.—The term ‘excess’, when applied to food, means food that—

“(A) is not required to meet the needs of executive agencies; and

“(B) would otherwise be discarded.

“(3) Food-insecure.—The term ‘food-insecure’ means inconsistent access to sufficient, safe, and nutritious food.

“(4) Nonprofit organization.—The term ‘nonprofit organization’ means any organization that is—

“(A) described in section 501(c) of the Internal Revenue Code of 1986 [26 U.S.C. 501 (c)]; and

“(B) exempt from tax under section 501(a) of that Code [26 U.S.C. 501 (a)].”