

Calendar No. 188

116TH CONGRESS
1ST SESSION

S. 979

[Report No. 116–84]

To amend the Post-Katrina Emergency Management Reform Act of 2006 to incorporate the recommendations made by the Government Accountability Office relating to advance contracts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 2, 2019

Mr. RUBIO (for himself, Mr. JOHNSON, Mr. PETERS, Mr. TILLIS, Mr. LANKFORD, and Ms. HASSAN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

SEPTEMBER 10, 2019

Reported by Mr. JOHNSON, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To amend the Post-Katrina Emergency Management Reform Act of 2006 to incorporate the recommendations made by the Government Accountability Office relating to advance contracts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal Advance Con-
3 tracts Enhancement Act” or the “FACE Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) the Post-Katrina Emergency Management
7 and Reform Act of 2006 (Public Law 109–925; 120
8 Stat. 1394) required the Federal Emergency Man-
9 agement Agency to establish advance contracts,
10 which are established prior to disasters and are typi-
11 cally needed to quickly provide life-sustaining goods
12 and services in the immediate aftermath of a dis-
13 aster;

14 (2) the catastrophic hurricanes and wildfires in
15 the United States in 2017 highlighted the impor-
16 tance of these advance contracts in disaster re-
17 sponse;

18 (3) in a report issued by the Government Ac-
19 countability Office entitled “2017 Disaster Con-
20 tracting: Action Needed to Better Ensure More Ef-
21 fective Use and Management of Advance Contracts”,
22 the Government Accountability Office identified a
23 number of challenges with advance contracts and
24 recommended actions to improve management by the
25 Federal Emergency Management Agency of these
26 contracts for future disasters; and

1 (4) section 691 of the Post-Katrina Emergency
 2 Management Reform Act of 2006 (6 U.S.C. 791)
 3 should be amended to incorporate the recommenda-
 4 tions made by the report described in paragraph (3)
 5 to ensure more effective use and management of ad-
 6 vance contracts.

7 **SEC. 3. FEDERAL EMERGENCY MANAGEMENT AGENCY AD-**
 8 **VANCE CONTRACTS.**

9 (a) IN GENERAL.—Section 691 of the Post-Katrina
 10 Emergency Management Reform Act of 2006 (6 U.S.C.
 11 791) is amended by adding at the end the following:

12 “(e) UPDATED REPORT.—Not later than 180 days
 13 after the date of enactment of this subsection, the Admin-
 14 istrator shall submit to the appropriate committees of
 15 Congress an updated report that contains—

16 “(1) the information required in the initial re-
 17 port under subparagraphs (A) and (B) of subsection
 18 (a)(1); and

19 “(2) an updated strategy described in sub-
 20 section (a)(1)(C) that clearly defines—

21 “(A) the objectives of advance contracts;

22 “(B) how advance contracts contribute to
 23 disaster response operations of the Agency; ~~and~~

24 “(C) *how to maximize the award of advance*
 25 *contracts to small business concerns, as defined*

1 *in section 3 of the Small Business Act (15*
 2 *U.S.C. 632); and*

3 “~~(C)~~(D) whether and how advance con-
 4 tracts should be prioritized in relation to new
 5 post-disaster contract awards.

6 “(f) ADDITIONAL DUTIES OF THE ADMINIS-
 7 TRATOR.—

8 “(1) HEAD OF CONTRACTING.—The Adminis-
 9 trator shall ensure that the head of contracting ac-
 10 tivity of the Agency—

11 “(A) not later than 270 days after the date
 12 of enactment of this subsection, updates the
 13 Disaster Contracting Desk Guide of the Agency
 14 to provide specific guidance—

15 “(i) on whether and under what cir-
 16 cumstances contracting officers should con-
 17 sider using existing advance contracts en-
 18 tered into in accordance with this section
 19 prior to making new post-disaster contract
 20 awards, and include this guidance in exist-
 21 ing semi-annual training given to con-
 22 tracting officers; and

23 “(ii) for contracting officers to per-
 24 form outreach to State and local govern-
 25 ments on the potential benefits of estab-

1 lishing their own pre-negotiated advance
2 contracts;

3 “(B) adheres to hard copy contract file
4 management requirements in effect to ensure
5 that the files relating to advance contracts en-
6 tered into in accordance with this section are
7 complete and up to date, whether the files will
8 be transferred into the Electronic Contract Fil-
9 ing System of the Agency or remain in hard
10 copy format;

11 “(C) notifies contracting officers of the 3-
12 day time frame requirement for entering com-
13 pleted award documentation into the contract
14 writing system of the Agency when executing
15 notice to proceed documentation;

16 “(D) not later than 180 days after the
17 date of enactment of this subsection, revises the
18 reporting methodology of the Agency to ensure
19 that all disaster contracts are included in each
20 quarterly report submitted to the appropriate
21 congressional committees under this section on
22 disaster contract actions;

23 “(E) identifies a single centralized resource
24 listing advance contracts entered into under
25 this section and ensures that source is current

1 and up to date and includes all available ad-
2 vance contracts; and

3 “(F) communicates complete and up-to-
4 date information on available advance contracts
5 to State and local governments to inform their
6 advance contracting efforts.

7 “(2) MASTER ACQUISITION PLANNING SCHED-
8 ULE.—Not later than 180 days after the date of en-
9 actment of this subsection, the Administrator shall
10 update and implement guidance for program office
11 and acquisition personnel of the Agency to—

12 “(A) identify acquisition planning time
13 frames and considerations across the entire ac-
14 quisition planning process of the Agency; and

15 “(B) clearly communicate the purpose and
16 use of a master acquisition planning schedule.”.

17 (b) REPORT.—The Administrator of the Federal
18 Emergency Management Agency shall regularly update
19 the appropriate committees of Congress (as defined in sec-
20 tion 602 of the Post-Katrina Emergency Management Re-
21 form Act of 2006 (6 U.S.C. 701)) on the progress of the
22 Federal Emergency Management Agency in implementing
23 the recommendations of the Government Accountability
24 Office in the report entitled “2017 Disaster Contracting:
25 Action Needed to Better Ensure More Effective Use and

1 Management of Advance Contracts”, as required under
2 section 691 of the Post-Katrina Emergency Management
3 Reform Act of 2006 (6 U.S.C. 791), as amended by sub-
4 section (a).

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