

115TH CONGRESS
2D SESSION

H. R. 4995

To direct the Administrator of the Federal Emergency Management Agency to establish a contractor review process with respect to certain contracts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 2018

Mr. THOMPSON of Mississippi (for himself, Mr. PAYNE, Mrs. WATSON COLEMAN, Ms. JACKSON LEE, Miss RICE of New York, Mrs. DEMINGS, Mr. KEATING, Mr. LANGEVIN, Mr. CORREA, Ms. BARRAGÁN, Mr. RICHMOND, and Mr. VELA) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To direct the Administrator of the Federal Emergency Management Agency to establish a contractor review process with respect to certain 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Due Diligence for
5 FEMA Disaster Contractors Act of 2018”.

1 **SEC. 2. PAST PERFORMANCE AND RESOURCES REVIEW.**

2 (a) REVIEW REQUIRED.—Before awarding a covered
3 contract, the Administrator of the Federal Emergency
4 Management Agency shall—

5 (1) conduct a review of the potential contractor
6 in accordance with this section; and

7 (2) after considering the results of the review,
8 determine whether the past performance and re-
9 sources of the contractor are adequate for perform-
10 ance of the covered contract.

11 (b) DETERMINATION OF ADEQUACY REQUIRED.—
12 The Administrator may only award a covered contract to
13 a contractor if the Administrator has determined pursuant
14 to subsection (a) that the past performance and resources
15 of the contractor are adequate for performance of the cov-
16 ered contract.

17 (c) SCOPE OF REVIEW.—In carrying out a review
18 under subsection (a) with respect to a covered contract,
19 the Administrator shall assess the past experience and re-
20 sources of the potential contractor, including whether the
21 contractor has—

22 (1) successfully performed a contract similar to
23 the covered contract (including contracts performed
24 at the State or local level);

25 (2) a record of—

1 (A) demonstrating appropriate organiza-
2 tion, accounting, and operational controls;

3 (B) conforming to contract requirements
4 and standards of good workmanship;

5 (C) forecasting and controlling costs and
6 demonstrating appropriate budgetary controls;

7 (D) adhering to schedules and appro-
8 priately satisfying the administrative aspects of
9 performance; and

10 (E) demonstrating reasonable and coopera-
11 tive behavior and a commitment to customer
12 satisfaction;

13 (3) personnel or subcontractors with adequate
14 experience to perform the covered contract;

15 (4) financial resources adequate to perform the
16 covered contract; and

17 (5) technical resources adequate to perform the
18 covered contract.

19 (d) WAIVERS.—

20 (1) IN GENERAL.—The Administrator may
21 waive a requirement under this section with respect
22 to a contract if the Administrator determines that
23 the waiver is in the public interest.

24 (2) NOTIFICATION.—Not later than 30 days
25 after the date on which the Administrator issues a

1 waiver under paragraph (1), the Administrator shall
2 submit to the Committee on Homeland Security and
3 the Committee on Transportation and Infrastructure
4 of the House of Representatives and the Committee
5 on Homeland Security and Governmental Affairs of
6 the Senate written notice of the waiver that includes
7 a description of the reasons for the waiver.

8 (e) COVERED CONTRACT DEFINED.—In this section,
9 the term “covered contract” means a contract—

10 (1) for goods or services;

11 (2) awarded in response to a major disaster or
12 emergency declared under the Robert T. Stafford
13 Disaster Relief and Emergency Assistance Act (42
14 U.S.C. 5121 et seq.); and

15 (3) in an amount that equals or exceeds
16 \$1,000,000.

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