

116TH CONGRESS
1ST SESSION

S. 979

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, and Mr. TILLIS) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

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

9 (2) the catastrophic hurricanes and wildfires in
10 the United States in 2017 highlighted the impor-
11 tance of these advance contracts in disaster re-
12 sponse;

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

22 (4) section 691 of the Post-Katrina Emergency
23 Management Reform Act of 2006 (6 U.S.C. 791)
24 should be amended to incorporate the recommenda-
25 tions made by the report described in paragraph (3)

1 to ensure more effective use and management of ad-
2 vance contracts.

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

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

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

12 “(1) the information required in the initial re-
13 port under subparagraphs (A) and (B) of subsection
14 (a)(1); and

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

17 “(A) the objectives of advance contracts;

18 “(B) how advance contracts contribute to
19 disaster response operations of the Agency; and

20 “(C) whether and how advance contracts
21 should be prioritized in relation to new post-dis-
22 aster contract awards.

23 “(f) ADDITIONAL DUTIES OF THE ADMINIS-
24 TRATOR.—

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

4 “(A) not later than 270 days after the date
5 of enactment of this subsection, updates the
6 Disaster Contracting Desk Guide of the Agency
7 to provide specific guidance—

8 “(i) on whether and under what cir-
9 cumstances contracting officers should con-
10 sider using existing advance contracts en-
11 tered into in accordance with this section
12 prior to making new post-disaster contract
13 awards, and include this guidance in exist-
14 ing semi-annual training given to con-
15 tracting officers; and

16 “(ii) for contracting officers to per-
17 form outreach to State and local govern-
18 ments on the potential benefits of estab-
19 lishing their own pre-negotiated advance
20 contracts;

21 “(B) adheres to hard copy contract file
22 management requirements in effect to ensure
23 that the files relating to advance contracts en-
24 tered into in accordance with this section are
25 complete and up to date, whether the files will

1 be transferred into the Electronic Contract Fil-
2 ing System of the Agency or remain in hard
3 copy format;

4 “(C) notifies contracting officers of the 3-
5 day time frame requirement for entering com-
6 pleted award documentation into the contract
7 writing system of the Agency when executing
8 notice to proceed documentation;

9 “(D) not later than 180 days after the
10 date of enactment of this subsection, revises the
11 reporting methodology of the Agency to ensure
12 that all disaster contracts are included in each
13 quarterly report submitted to the appropriate
14 congressional committees under this section on
15 disaster contract actions;

16 “(E) identifies a single centralized resource
17 listing advance contracts entered into under
18 this section and ensures that source is current
19 and up to date and includes all available ad-
20 vance contracts; and

21 “(F) communicates complete and up-to-
22 date information on available advance contracts
23 to State and local governments to inform their
24 advance contracting efforts.

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

6 “(A) identify acquisition planning time
7 frames and considerations across the entire ac-
8 quisition planning process of the Agency; and

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

11 (b) REPORT.—The Administrator of the Federal
12 Emergency Management Agency shall regularly update
13 the appropriate committees of Congress (as defined in sec-
14 tion 602 of the Post-Katrina Emergency Management Re-
15 form Act of 2006 (6 U.S.C. 701)) on the progress of the
16 Federal Emergency Management Agency in implementing
17 the recommendations of the Government Accountability
18 Office in the report entitled “2017 Disaster Contracting:
19 Action Needed to Better Ensure More Effective Use and
20 Management of Advance Contracts”, as required under
21 section 691 of the Post-Katrina Emergency Management
22 Reform Act of 2006 (6 U.S.C. 791), as amended by sub-
23 section (a).

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