



COMMITTEE ON HOMELAND SECURITY

H.R. 3500, the “the Federal Advance Contracts Enhancement (FACE) Act” As introduced by Rep. Bennie G. Thompson (D-MS)

In recent years, the U.S. has faced an increase in the number and magnitude of natural disasters. The 2017 and 2018 hurricane seasons were two of the most expensive on record. Taken together, weather-related losses over the two years is estimated at \$653 billion.¹ The increase of disasters has led to an increase in the number of contracts the Federal Emergency Management Agency (FEMA) executes.

After Hurricane Katrina, Congress directed FEMA to use advance, or pre-negotiated, contracts, to lessen the burden on contracting needs during a disaster response. Advance contracts are awarded when government agencies are not facing an urgent need for emergency goods and services and can maximize competition, conduct market research, and thoroughly evaluate vendors’ qualifications. When advance contracts are not in place, governments must scramble to award contracts on an emergency basis. The execution of emergency contracts can result in limited competition, elevated costs, insufficient scrutiny of bidders, and delivery delays.

In August 2017, just before Hurricane Harvey hit southeastern Texas, FEMA had 59 advance contracts in place for a range of goods and services, including bottled water, blankets, generators, durable medical equipment, housing inspections, short-term lodging, and mass transportation.² According to the Government Accountability Office (GAO), FEMA obligated more than \$2.7 billion in advance contracts as of May 31, 2018.³ However, these advance contracts were insufficient in meeting the demands of three back-to-back-to-back hurricanes — each of which would have strained FEMA’s capabilities on its own.

In December 2018, GAO released a report on FEMA’s use of advance contracts. The report found that FEMA used an outdated strategy and unclear guidance on how contracting officers should use advance contracts during a disaster, had challenges performing acquisition planning for new contracts, and did not do enough to promote the use of advance contracts at the state and local level.

Rep. Bennie G. Thompson (D-MS), Chairman of the Committee on Homeland Security, introduced the **Federal Advance Contracts Enhancement (FACE) Act**, which requires FEMA to ensure more effective use and management of its advance contracts for goods and services. It directs FEMA to update its advance contracting strategy, issue new guidance to its contracting workforce on the use of advance contracts, promote advance contracts to local and state governments, and improve the use of the agency’s program to track major acquisitions. Senator Marco Rubio (R-FL) introduced the Senate companion, S. 979.

¹ Leefeldt, Ed. “2017 and 2018 were costliest ever years for natural disasters.” CBS News. January 22, 2019. Accessed June 4, 2019. <https://www.cbsnews.com/news/2017-and-2018-were-costliest-ever-years-for-natural-disasters/>.

² Letter from Brock Long, Administrator, Federal Emergency Management Agency, to The Honorable Bennie G. Thompson, Ranking Member, Committee on Homeland Security (Oct. 18, 2018).

³ Government Accountability Office, *2017 Disaster Contracting: Action Needed to Better Ensure More Effective Use and Management of Advance Contracts* (GAO-19-93) (December 2018).